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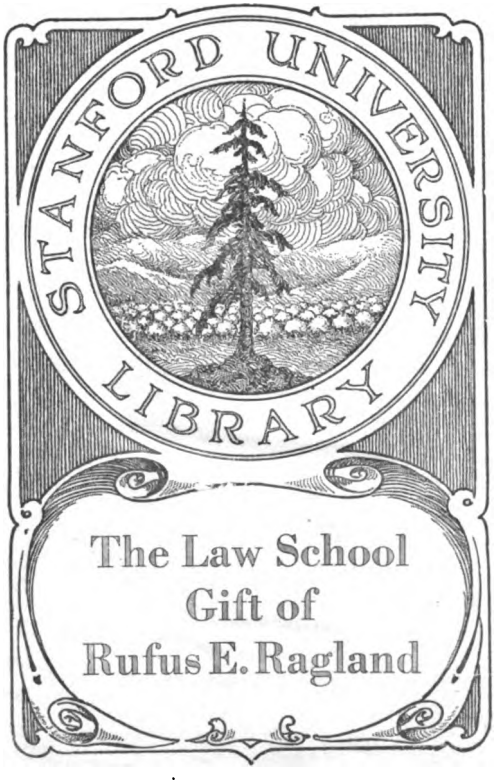

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U.S. Internal Revenue Service

TREASURY DEPARTMENT

BUREAU OF INTERNAL REVENUE

DIGEST OF TREASURY DECISIONS RELATING TO INTERNAL REVENUE

ISSUED PURSUANT TO THE ACTS OF
1909, 1913, 1914, 1916, 1917

DURING THE PERIOD FROM SEPTEMBER 9, 1916
TO DECEMBER 31, 1920

▽

(Treasury Decisions 2359–3111)

WASHINGTON
GOVERNMENT PRINTING OFFICE
1921

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TREASURY DEPARTMENT,
Document No. 2819.
Internal Revenue.

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INTRODUCTORY.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 1, 1920.

The following Digest of Treasury Decisions made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, including abstracts of judicial decisions and opinions of the Attorney General, covers the decisions under the acts of 1909, 1913, 1914, 1916, 1917, and other acts of Congress issued during the period from September 9, 1916, to December 31, 1920 (Treasury Decisions 2359–3111), excepting only the decisions under the Revenue Act of 1918 and the National Prohibition Act of October 28, 1919. In connection with decisions under the latter-mentioned acts, attention is directed to the various regulations relating thereto, as follows:

35. Narcotics.
37. Estate tax (T. D. 2910).
40. Stamp tax on issue, etc., of stock and sales of products for future delivery.
43. Admissions and dues (T. D. 2830).
45. Income and profits taxes (T. D. 2831).
46. Employment of child labor (T. D. 2823).
47. Excise tax on sales by manufacturers (T. D. 2832).
48. Excise tax on works of art and jewelry (T. D. 2833).
49. Transportation tax (T. D. 2834).
50. Capital stock tax (T. D. 3039).
51. Excise tax on toilet and medicinal articles (T. D. 3040).
52. Soft drinks, etc., sold in closed containers (T. D. 2838).
53. Soft drinks, etc., sold at soda fountains, etc. (T. D. 2839).
54. Excise tax on sales by dealer of wearing apparel, etc. (T. D. 2866).
55. Stamp tax on documents (T. Ds. 2867, 3094).
56. Motion-picture films (T. Ds. 2868, 3070).
57. Tax on telegraph, telephone, radio, and cable facilities (T. Ds. 2890, 3054).
58. Insurance tax (T. Ds. 2939, 3063).
59. Special taxes upon businesses and occupations and upon use of boats (T. D. 2983).
60. Intoxicating liquor (T. D. 2985).
61. Industrial alcohol and denatured alcohol (T. D. 2986).

This Digest is published for the information of officers and agents of the Internal Revenue Bureau and all others concerned.

WM. M. WILLIAMS,
Commissioner of Internal Revenue.

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DIGEST OF INTERNAL REVENUE DECISIONS.

ABATEMENT OF TAX.

See "Claims."

ABSCONDING.

Income taxes—Abatement.

See "Income Taxes (Individuals)."

ABSENCE.

Capital stock tax—Persons liable for return.

Where failure to file return is due to absence, collector may allow further time, not exceeding 30 days, for making and filing return as he deems proper. (T. D. 2750, art. 21, Appendixes A, B; Aug. 9, 1918.)

Excess profits and income taxes—Persons liable for returns or payment.

Where, by reason of absence from their homes or places of business in the military service of the country, it is impossible for individuals to receive notice and demand, Form 17, and pay taxes assessed so that taxes can be received by collector within 10-day period following service of notice, collector is requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that payment should be received in ordinary course of mails; and where it appears that full amount of tax was placed in mails within 10-day period, or in case notice is not delivered in due time by reason of delay in mail, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

Time for filing war excess profits tax returns by nonresident alien individuals and corporations and American citizens residing or traveling abroad, including persons in military or naval establishments stationed or on duty beyond limits of the States and Territories of Hawaii and Alaska, extending for such period as may be necessary to and including 90 days after proclamation of President of the United States announcing close of war with Germany; any such person filing return after April 1, 1918, but on or before October 1, 1918, embodying therein or attaching thereto written statement showing that he comes within classes designated by T. D. 2581, need not file supporting affidavit stating cause of delay. (T. D. 2672; Mar. 16, 1918.)

Return may be made by an agent when by reason of illness, absence, or nonresidence person liable for return is unable to make same, agent assuming responsibility of making return and incurring penalties provided for intentional false or fraudulent return. (T. D. 2690; art. 22.)

Where corporation fails or neglects to file return within prescribed time, and such neglect is due to sickness or absence, collector may grant extension of time within which to file return, which extension must not exceed 30 days from normal due date; application for extension must be made prior to expiration of period for which extension is desired. (T. D. 2690; art. 222.)

Absence of one or more officers, at time return is required to be filed, will not be accepted as reasonable cause for failure to file return within prescribed time, unless it is satisfactorily shown that there were no other principal officers available and sufficiently informed as to affairs of corporation to make and verify return. (T. D. 2690; art. 223.)

ACCEPT.

Definition.

The word "accept" is used in the penal provision in section 802 of the act of October 3, 1917, in the general sense of "receive," not in the special sense peculiar to drafts. (T. D. 2682; Mar. 26, 1918.)

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ACCESSORIES.

See "Excise Taxes."

ACCIDENT COMPENSATION.

Income tax.

Payments made to injured employee by corporation under the accident compensation laws of the several States constitute taxable income of the employee. (T. D. 2570; Nov. 6, 1917.)

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

Proceeds of accident insurance policy received by individual on account of personal injuries sustained through accident are not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

ACCOUNTS.

Excess profits tax—"Tangible property."

Stocks, bonds, bills and accounts receivable, notes and other evidences of indebtedness, and leaseholds, when paid in for stock or shares in corporation or partnership, will be regarded as tangible property so paid in, but when corporation pays for intangible property by the issuance of its own stock or bonds this will not be regarded as being a payment bona fide made in cash or tangible property within meaning of section 207 of act October 3, 1917. (T. D. 2694; art. 47.)

Income taxes—Net income.

Corporations keeping accounts in strict accord with methods prescribed by municipal, State, or Federal authorities, or in accord with approved standard accounting practices consistently followed from year to year, will be permitted to make their returns of annual net income on basis of accounts so kept, provided such systems of accounting clearly and correctly reflect net income of each year. (T. D. 2690; art. 127.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property, plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited with amount claimed and allowed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account, with respect to this property and capital invested therein, will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

Both owner and lessee of mining properties will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation and depletion reserve account with amount claimed and allowed as deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

—— Returns.

Individual keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income, may, subject to regulations made by the Commissioner of Internal Revenue, with approval of Secretary of the Treasury, make his return upon the basis on which his accounts are kept. (T. D. 2690; art. 24.)

Returns should be made on basis of receipt unless individual liable for return keeps account on some other basis which will clearly reflect his income. (T. D. 2690; art. 26.)

Any system of accounting which is not consistent with purpose and intent of rules set out in Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and with the general rules set out in Regulations No. 33, for ascertainment of net income, will not be accepted as correct basis for making returns. (T. D. 2690; art. 128.)

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ACCRUED INTEREST.

See "Interest."

ACETIC ACID.

Denatured alcohol.

See "Alcohol."

ACETONE.

Denatured alcohol.

See "Alcohol."

ACTIONS.

Adulterated butter.

Under the oleomargarine act of August 2, 1886, section 14, and the adulterated butter act of May 9, 1902, section 4, where there has been a hearing on contested facts and arbitrary conduct in the legal sense is not complained of, decision of Commissioner that certain substance or compound constitutes adulterated butter is final and may not be attacked in any action at law to recover back tax and penalty paid under protest. (T. D. 2803; Mar. 12, 1919. Ct. Dec.)

Conditions precedent.

Claim for refund filed in August, 1903, with Commissioner of Internal Revenue as prerequisite to suit against collector to recover succession tax collected under act of June 13, 1898, is sufficient to meet requirements of act of July 27, 1912; effect of claim was not extinguished by judgment in suit and it is not necessary that claim be filed under the 1912 act. (T. D. 2885; July 10, 1919. Ct. Dec.)

The bar of section 3226, Revised Statutes, making appeal to Commissioner and decision by him a necessary condition precedent to action to recover tax illegally collected, and of section 3228, Revised Statutes, fixing two years as time within which to bring such an action, is removed as to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of the act of June 27, 1902, and section 2 of the act of July 27, 1912, and presented to Commissioner claim for refund of the tax. (T. D. 2886; July 10, 1919. Ct. Dec.)

Fact that tax was voluntarily paid—that is, without protest—is no impediment to the application of act of July 27, 1912. (T. D. 2886; July 10, 1919. Ct. Dec.)

Suits to recover internal-revenue taxes are barred by failure to appeal to the Commissioner of Internal Revenue, as required by section 3226, Revised Statutes. (T. D. 3013; May 3, 1920. Ct. Dec.)

Debt—Recovery of tax.

Common-law action of debt lies in favor of Government whenever by accident, mistake, or fraud taxes have not been paid; Government may recover personal judgment for tax whenever there exists duty to pay, provided another remedy has not been made exclusive by clear and specific declaration; reassessment provided for by act August 5, 1909, section 38, is not prerequisite to action. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

Income taxes—Collection.

No suit will be brought to recover unpaid taxes until collector of district shall have submitted to Commissioner full report of all material facts and circumstances of the case and shall have received express authority to report case to United States attorney for suit. (T. D. 2690; art. 250.)

Amounts collected by distraint or otherwise subsequent to institution of suit for collection by United States attorney should be at once reported to United States attorney for his guidance in his further prosecution of case in court. (T. D. 2690; art. 251.)

When suit to recover tax is decided in favor of United States and execution issued and returned nulla bona as respects whole or part of judgment, collector should satisfy himself whether or not any personal property can be found to satisfy such judgment and whether there is any real property which can be subjected, by distraint or by suit in equity, under section 3207, Revised Statutes, to sale in satisfaction of judgment; where satisfied that there is no such real or personal property collector should present to Commissioner a claim on Form 53 for abatement of amount not collected if it has not already been abated, making statement thereon of his action, accompanied by certificate of clerk of court as to facts in case. (T. D. 2690; art. 253.)

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Income taxes—Collection—Continued.

Where suit for taxes not abated as uncollectible is dismissed upon technical defect in proceedings, or when adverse verdict is rendered on some technical ground not reaching merits of case, and right to new trial or to appeal has elapsed and tax can not be collected by distraint or by suit in equity to subject real estate to sale, claim for abatement should be made on Form 53. (T. D. 2690; art. 254.)

Collectors are authorized to pay clerk of court his legal fees for certificates furnished by him relative to litigated taxes, and will be credited in their expense accounts for amounts so paid on filing therewith vouchers covering expenses thus incurred. (T. D. 2690; art. 255.)

Judgment as bar.

Judgment in suit against collector to recover succession tax collected under act of June 13, 1898, for part of claim only, certain interests involved being erroneously held to be taxable as being vested in possession or enjoyment before July 1, 1902, which judgment was satisfied by the United States, is no bar to suit against United States in Court of Claims to recover unpaid residue. (T. D. 2885; July 10, 1919. Ct. Dec.)

ADMINISTRATIVE.

Accounting—Allowances for expenses and disbursements.

No expense shall be incurred or disbursement made by any administrative or disbursing officer of Internal Revenue Service involving internal-revenue appropriation, unless allowance therefor has previously been granted by the Secretary of the Treasury, or by his authority, upon the recommendation of the Commissioner of Internal Revenue; in cases of emergency, requests for such allowance or the preliminary notification of the granting thereof, or both, may be made by telegraph. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— Bureau at Washington.

The administration of granting of all allowances for the Bureau of Internal Revenue at Washington shall be centralized in Division of Appointments, which will have jurisdiction over granting of allowances for salaries and expenses of Bureau officers and employees, and Division of Supplies and Equipment, which will have jurisdiction over granting of all Bureau allowances other than those for salaries and expenses of officers and employees, and all requests for said allowances will be made upon the Commissioner of Internal Revenue through these divisions. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— Classes of allowances.

Allowances are divided into two classes, viz, (a) annual allowances; (b) special allowances.

(a) Annual allowances comprise those covering fixed charges which recur regularly from month to month and which are granted for full fiscal year or such portion thereof as is unexpired at time of their becoming effective; charges accruing regularly, although made to cover period of fiscal year, or which are not paid regularly each month, should not be classed as annual allowances; all unused balances of monthly portion of allotment of annual allowances will be regularly liquidated by the Division of Accounts and become available for allowance under the respective appropriations for other purposes; salaries and fixed allowances of permanent employees are the most common examples of annual allowances.

(b) Special allowances comprise those which are not included in above definition of annual allowances, and which are made for some special purpose or on account of which charges accrue or payments are made irregularly, or both; balances of special allowances will be carried in Division of Accounts, against which all payments will be checked, and any final balances will be liquidated and made available for allowance for other purposes; disbursing agents in reporting payments upon the schedules should indicate when they are final as to each special allowance; salaries and travel allowances of temporary employees, office supplies and equipment, leases, printing, and lump sums for miscellaneous expenses are examples of special allowances. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— Copies of allowances.

Copies of all allowances granted and withdrawn will be furnished each day, as designated upon printed forms, (a) to disbursing agents in field service who are to pay amounts of allowances granted, or to proper requisitioners in case of bureau service at Washington, (b) to Division of Accounts, (c) to Auditor for the Treasury

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Accounting—Continued.

—— **Copies of allowances**—Continued.

Department, except that in lieu of furnishing copies of Form 62 to the auditor, a copy of each order (Chief Clerk, Treasury Department Form 20A) based upon requests made upon said Form 62 will be continued to be furnished to Division of Accounts, to be subsequently sent to auditor with voucher to which it pertains, (d) one copy to be retained as an office copy by the issuing department. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— **Disbursing agents' accounts current.**

Disbursing agents are required to submit their accounts current (Form 44) and schedules of disbursements (Form 63, Revised) in duplicate, one copy for the auditor and one copy to be retained in the files of the Division of Accounts. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— **Field service, in general.**

Administration of granting of allowances shall, in case of allowances for field service, be centralized in (a) Supervisor of Collectors' Offices, (b) Head, Field Audit Division, Income Tax Unit, and (c) Federal Prohibition Commissioner, and all requests for such allowances will be made upon the Commissioner of Internal Revenue through these offices; issuing of grants of said allowances through the medium of the formal allowance documents will be centralized in (d) Division of Appointments and (e) Division of Supplies and Equipment. (T. D. 2996; Mar. 24, 1920.)

The Supervisor of Collectors' Offices will have jurisdiction over granting of all allowances for salaries and expenses of officers and employees, for supplies and equipment, and for other requirements of collectors' offices. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

The Head; Field Audit Division, Income Tax Unit, will have jurisdiction over granting of allowances for salaries and expenses of officers and employees, for supplies and equipment, and for other requirements of the offices of Revenue Agents in Charge, subject to review and control in estate tax matters by the Deputy Commissioner in Charge of Estate Tax Division. (T. D. 2996; Mar. 24, 1920.)

The Federal Prohibition Commissioner will have jurisdiction over the granting of all allowances for salaries and expenses of officers and employees, for supplies and equipment, and for other requirements of the offices of Federal Prohibition Directors and Supervising Federal Prohibition Agents. (T. D. 2996; Mar. 24, 1920.)

The Division of Appointments will have jurisdiction over issuing of formal allowance documents covering salaries and expenses of internal revenue officers and employees in the field service; expenses will include railroad and other fares, subsistence, and any other travel or other expenses personal to officers and employees; said division, under the immediate direction of the assistant to the Commissioner, will keep all files and records relating to appointments in the field, as well as in the Bureau, and will include decisions as to field appointments but will not exercise discretion with respect to any appointment, transfer, promotion, or separation from the service of any officer or employee, this discretion being lodged in the Supervisor of Collectors' Offices, Head, Field Audit Division, Income Tax Unit, and the Federal Prohibition Commissioner, subject to the discretion of the Commissioner of Internal Revenue. (T. D. 2996; Mar. 24, 1920.)

The Division of Supplies and Equipment will have jurisdiction over the issuing of the formal documents covering allowances for field service other than expenses for railroad and other fares, for subsistence, and other travel or other expenses personal to officers and employees, including supplies and equipment, freight and express transportation, rentals, printing and binding, and miscellaneous expenses other than personal. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— —— **Transmission of requests.**

As requests for allowances are received from field service and indorsed by the Supervisor of Collectors' Offices, the Head, Federal Audit Division, Income Tax Unit, and Federal Prohibition Division, within their respective jurisdictions, said requests will be transmitted to Division of Appointments in case of allowances for railroad and other fares, for subsistence, and other travel or other expenses personal to officers and employees, and to the Division of Supplies and Equipment in case of allowances for supplies and equipment, freight and express transportation, rentals, printing and binding, and miscellaneous expenses other than personal, where the formal allowance documents will be prepared and submitted to the Commissioner of Internal Revenue for approval. (T. D. 2996; Mar. 24, 1920.)

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Accounting—Continued.

—— **Forms.**

Grants of allowances, as well as withdrawals of same, must be made through medium of standard forms provided therefor, and no charges encumbering appropriations will be made in the Division of Accounts or credits allowed for disbursements made unless the formal allowance documents covering same have been received in said division. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

For purpose of granting and withdrawing allowances the following forms are provided and their use enjoined: Form 7367, "Grant of Annual Allowances"; Form 7369, "Grant of Special Allowances"; Form 7368, "Withdrawal of Annual Allowances"; Form 7370, "Withdrawal of Special Allowances"; Form 62, "Purchase or Stores Requisition upon the Chief Clerk of the Treasury Department." These forms, serially numbered, are kept in stock in Division of Accounts, and custodian thereof will be held responsible for care and duly authorized issue thereof; as required for issue, said forms will be supplied upon requisition therefor; the Division of Accounts will keep a check upon the forms issued and require that the numbered sheets be accounted for. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

Withdrawals of annual and special allowances, in whole or in part, will in case of each class of allowances be covered by separate series of forms, issued by Division of Appointments and Division of Supplies and Equipment, as provided in case of granting of annual and special allowances. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— **Method of estimating expenses, etc.**

Nothing in the regulations, as set forth in T. Ds. 2872 and 2996, shall be construed to change the present method of estimating and allowing expenses or making and accounting for disbursements under indefinite appropriations, whether permanent (e. g., "Refunding Taxes Illegally Collected") or annual (e. g., "Increase of Compensation"). (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

—— **Writing up allowance documents.**

In writing up allowance documents it is essential not only that necessary details be given respecting items sought to be allowed, as provided for upon the standard forms or as may be required, but that documents show in every case the exact amount for which it is proposed to charge an appropriation; separate documents will be used for each appropriation. (T. D. 2872; June 20, 1919. T. D. 2996; Mar. 24, 1920.)

Bonds—Additional taxes.

Form of bond to be executed in duplicate with approved surety company prescribed for extending payment to date not exceeding seven months from passage of act of October 3, 1917, of additional taxes imposed by act. (T. D. 2533; Oct. 6, 1917.) Penal sum of bond fixed at not less than tax due; if tax as shown by return is less than $1,000, penal sum of bond may be less than $1,000. (T. D. 2574; Oct. 31, 1917.)

Payment of tax shown to be due under section 403 of act of October 3, 1917, may, upon filing of bond, be extended to date not exceeding seven months from pas age of such act; bond to be executed in duplicate, with approved surety company, in penal sum of not less than double the tax due and in no case less than $1,000. (T. D. 2556; Oct. 16, 1917. But see T. D. 2574 as to penal sum of bond.)

Payment of additional taxes on account of stamps for payment of tax on cigars, cigarettes, etc., on hand on October 4, 1917, and November 2, 1917, must be made at time manufacturer files return—in case of inventories of October 4, 1917, on or before November 2, 1917; and in case of inventories of November 2, 1917, on or before December 1, 1917—and in no case can this time be extended beyond such dates; no bond for extending payment will be accepted, as in case of additional taxes on stocks in hands of dealers, as the law makes no provision to that effect. (T. D. 2569; Oct. 17, 1917.)

Returns required by section 1002 of act of October 3, 1917, required to be filed on or before November 2, 1917; time for filing return can not be extended by giving of bond. (T. D. 2584; Nov. 20, 1917.)

Where satisfactory bonds have not been given for extension of time for making payment, notice and demand should be mailed as provided by section 3184, Revised Statutes, which notice and demand should be served on Form 1-17, and should be followed in order by Form 1-21 and Form 69 within intervals of 10 days of each other; notice where required bonds have been given; penalties; suits on bonds. (T. D. 2648; Jan. 28, 1918.)

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Bonds—Continued.

—— Collateral security.

Bonds deposited as security must be immediately forwarded to Commissioner of Internal Revenue by registered mail for safe-keeping, except where collector's office is in same city as Federal reserve bank, in which case coupon bonds received should be deposited with such bank, which will issue its receipt; disposition of receipts; assignment of registered bonds; insurance of packages. (T. D. 2554; Oct. 25, 1917.)

Form of bond with personal surety to be executed in penal sum of not less than tax due and in no case less than $1,000 prescribed; personal surety need not be required to qualify on Form 33 when he is supported by collateral security of a value clearly in excess of amount of tax due. (T. D. 2557; Oct. 27, 1917. But see T. D. 2574 as to penal sum of bond.)

Where collateral other than Liberty bonds is deposited as security, principal must execute bond in stated form, and collector is required to give certain receipt; collateral should be surrendered to taxpayer as soon as tax and interest have been paid; if tax is paid in installments proportionate amount of collateral deposited may be surrendered in discretion of collector. (T. D. 2574; Oct. 31, 1917.)

Bond as security for payment of floor taxes filed before expiration of 10 days after the date of notice and demand for payment should be accepted as security; bond may be accepted after such 10 days if sufficient in amount to cover tax and accrued penalties. (T. D. 2574; Oct. 31, 1917.)

Collectors should use vigilance in collection of taxes and issue distraint warrant wherever necessary; if taxes secured by filing of bond are not paid within time limit, collector should endeavor to collect by distraint. (T. D. 2574; Oct. 31, 1917.)

Any registered or coupon bonds of the United States may be accepted as security for payment of floor taxes, in accordance with T. D. 2537, T. D. 2554, and T. D. 2557. (T. D. 2606; Dec. 13, 1917.)

Taxpayer may give personal bond with one or more personal sureties, as required by statute, supported by deposit of registered bonds of United States, at face value equal to penal sum of bond, assigned to "The Commissioner of Internal Revenue"; forms of bonds prescribed in existing regulations may be modified to conform with requirements of this holding; bonds need not be deposited when personal sureties are sufficient, but where bonds are deposited as collateral, sureties will not be required to qualify on Form 33; registered bonds deposited to be forwarded to Commissioner by registered mail for safe-keeping; upon cancellation of bonds given by taxpayer bonds forwarded will be reissued in accordance with instructions of taxpayer. (T. D. 2606; Dec. 13, 1917.)

—— —— Liberty bonds.

Collectors authorized to accept in lieu of surety bonds as security for payment of floor taxes covered by section 1002 of act of October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of the taxes due. (T. D. 2537; Oct. 17, 1917.)

Collectors authorized to accept certificate of bank or trust company, member of Federal reserve system, sufficiency and solvency of which are satisfactory to collector, to effect that taxpayer has deposited cash or Treasury certificates of indebtedness in full payment of Liberty loan bond subscriptions in name of "Commissioner of Internal Revenue in trust for ———," or in event bond transaction is not consummated taxes will be paid to collector in cash or corporate surety bond filed; form of certificate indicated; certificate to be forwarded to Commissioner of Internal Revenue. (T. D. 2554; Oct. 25, 1917.)

Where Liberty bonds are deposited as security, principal must execute bond in stated form; Liberty bonds deposited and in possession of collector of internal revenue should be surrendered to taxpayer as soon as the tax and interest have been paid; if tax is paid in installments, a proportionate amount of the collateral deposited may be surrendered in the discretion of the collector. (T. D. 2574; Oct. 31, 1917.)

Wine maker producing not exceeding 1,000 gallons may either file bond, Form 699, or may deposit with collector as security Liberty loan bonds or cash equal to amount of tax; if Liberty loan bonds are deposited, he must execute bond, in duplicate, in stated form, and in such form with appropriate substitutions in case cash is deposited; bond and security must be filed with collector prior to time of crushing grapes. (T. D. 2765; Oct. 21, 1918.)

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Bonds—Continued.

—— **Collateral security**—Continued.

—— —— **Liberty bonds**—Continued.

When Liberty loan bonds or cash are deposited as security by wine maker producing not exceeding 1,000 gallons per year, the collector should give the depositor a receipt in stated form, which receipt should be made in triplicate, one copy being immediately transmitted to Commissioner of Internal Revenue; safekeeping of bonds; assigning of registered bonds; security thus pledged should not be held by collector except upon instructions from Commissioner, and security will be surrendered as soon as tax and any accrued penalty and interest have been paid. (T. D. 2765; Oct. 21, 1918.)

Claims for abatement or refund.

See "Claims."

Collection and payment of taxes.

See specific heads.

—— **Advance payment.**

Instructions with reference to time for making advance payments in installments or in whole of income and excess-profits taxes under section 1009 of act of Oct. 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

—— **Certificates of indebtedness accepted.**

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand;" schedule showing amount of accrued interest payable per certificate of each issue on any date from Jan. 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from Feb. 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated Mar. 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from Mar. 15, to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of tax series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located and must be forwarded by registered mail; until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

—— **Collection and deposit of checks.**

Department Circular No. 144, issued under date of May 20, 1919, with reference to collection and deposit of checks received in payment of internal revenue taxes, published for information of internal revenue officers and others concerned. (T. D. 2846; May 24, 1919.)

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Collection and payment of taxes—Continued.

—— **Fractional part of cent—Beverages.**

In computing tax a fractional part of a cent should be disregarded unless it amounts to one-half cent or more, in which case it should be increased to a full cent. (T. D. 2719; Art. XXXIX.)

—— —— **Excise taxes.**

In computing tax a fractional part of a cent should be disregarded unless it amounts to one-half cent or more, in which case it should be increased to a full cent. (T. D. 2719; Art. XXXIX.)

—— —— **Income taxes.**

In payment of income tax a fractional part of a cent shall be disregarded unless it amounts to a half cent or more, in which case the fraction shall be increased to 1 cent. (T. D. 2690; art. 41.)

—— **Uncertified checks received.**

If uncertified check, accepted by collectors, is not paid, person by whom it has been tendered remains liable for tax; such uncertified checks as depositary bank is willing to accept should be included in certificate of deposit issued to collector; all other certificates will be carried by collector as "cash on hand;" date on which collector receives check considered date on which payment is made unless check is returned dishonored; such uncertified checks as bank is not willing to accept for immediate credit may be deposited for collection, and when collection is made proceeds should be immediately deposited with other collections for the day, collector charging his account "cash on hand," and crediting taxpayer from whom check was received. (T. D. 2627; Dec. 28, 1917.)

Penalties for violation of laws and regulations.

See specific heads.

Returns of taxpayers.

See specific heads.

ADMISSIONS.

Accommodations included in admissions.

Where an admission charge is made at the main entrance and an additional charge is made for admission to seats, tables, or other space, tax is payable on aggregate charge. (T. D. 2681; Mar. 26, 1918.)

Agents selling tickets.

See "Brokers in tickets," *post*.

Agricultural fairs.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

Airdromes.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

"All the proceeds."

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

Athletic contests.

See "Baseball," *post*.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

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Attorneys for theaters.

Attorneys for theaters are exempt from tax imposed by section 700 of act of October 3, 1917, when entering theater in course of their employment, but must pay it when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

Baseball—Rain checks.

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

—— Reporters and telegraphers.

Admissions of baseball reporters and telegraphers, occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, are exempt from tax under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Basis of tax.

Where an admission charge is made at the main entrance and an additional charge is made for admission to seats, tables, or other space, tax is payable on aggregate charge. (T. D. 2681; Mar. 26, 1918.)

Bench shows.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

Bona fide employees.

See "Employees," *post.*

Boxes at places of entertainment.

Tax imposed by section 700 of the act of October 3, 1917, must be paid in respect to performance for which boxes or seats are sold or reserved, whether or not they are used; if there are no boxes of similar size, tax is to be computed by dividing tax payable on smaller box by number of seats in it and multiplying tax of seat by number of seats in larger box, and if there are no boxes occupying similar position tax is to be based on price of single seats in same part of house; in case of seats or boxes leased or reserved for period before and after November 1, 1917, tax is payable on admissions after October 31, 1917, and should be collected for all such admissions upon first use of box or seat after that date; where lease only entitles lessee to right of occupancy upon payment of regular price charged for admission, tax of 10 per cent is to be collected also on additional charge when paid. (T. D. 2681; Mar. 26, 1918.)

Brokers in tickets.

Where a broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

Ticket brokers required to collect tax on admissions, shall, on the 1st day of April, 1918 (and if not on that date engaged in business, then within 10 days after engaging in business), and annually thereafter on the 1st day of July, file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business, or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

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Brokers in tickets—Continued.

Ticket brokers required to keep daily records showing tickets sold for each entertainment; proceeds; cost of tickets and tax returnable; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729 and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made; daily record of brokers, with copies of their monthly returns, required to be kept on file for two years, in such manner as to be readily accessible to internal revenue officers. (T. D. 2681; Mar. 26, 1918.)

Business.

If person admitted free to place of entertainment attends purely for business reasons and does not occupy space that might otherwise be sold, tax provided for by section 700 of the act of October 3, 1917, is not payable. (T. D. 2681; Mar. 26, 1918.)

Cabarets—Basis of tax.

Where an adequate fixed charge is made for admission, seats, and tables, the tax of 1 cent for each 10 cents or fraction thereof paid for admission, imposed by section 700 of the act of October 3, 1917, shall be based upon such charge; where a nominal admission, not actually covering cost of entertainment is charged, admission being wholly or partly absorbed in price of refreshments and service, such charge will not be accepted as basis of tax. (T. D. 2681; Mar. 26, 1918.)

—— Checks and coupons.

Cabaret proprietors must furnish each guest, upon paying his check, a coupon receipt to be detached therefrom, containing separately in indelible figures the total of the amount paid for refreshments, etc., and the war tax paid thereon; the checks and coupons must be serially numbered. (T. D. 2681; Mar. 26, 1918.)

—— Computation of charge for admission.

Twenty per cent of total amount paid for refreshments, merchandise, service, couvert charge, etc., including any sum paid for seats and tables, at any public performance for profit, to which charge for admission is included in amount so paid, shall be deemed to be paid for admission, unless satisfactory evidence is submitted to Commissioner of Internal Revenue that different percentage should be fixed, on basis of which commissioner shall approve different percentage; tax is at rate of 1 cent on each 10 cents or fraction thereof of such 20 per cent of total charge to each patron, and must be paid by person paying for such refreshment, service, etc., and can not be reckoned or paid by proprietor upon monthly gross receipts. (T. D. 2681; Mar. 26, 1918.)

—— Definition.

The words "cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, include every hotel, or room therein, restaurant, hall, or other public place, at or in which, in connection with service or sale of food or other refreshments or merchandise, any vaudeville or other performance or diversion in way of acting, singing, declamation, or dancing, either with or without instrumental or other music, is conducted; every form of entertainment so conducted is included, except that furnished by orchestras such as were usual in hotels and restaurants before advent of cabarets, performing instrumental music only, unaccompanied by any other form of entertainment; hotel, restaurant, or hall, affording, in connection with service of refreshment, food, or merchandise, entertainment in form of dancing by its patrons, is included; performance must be public and for profit; where there is entertainment in one dining room and not in an entirely separate dining room of same hotel or restaurant, only admissions to first room are taxable. (T. D. 2681; Mar. 26, 1918.)

—— Payment of tax.

Tax must be paid by person paying for refreshments, service, merchandise, etc., it can not be reckoned or paid by proprietor upon monthly gross receipts; tax to be collected only from persons present or who have paid or agreed to pay for accommodations during some period of day at which entertainment is in progress or there is opportunity for public dancing in case of public banquets including dancing. (T. D. 2681; Mar. 26, 1918.)

—— Returns.

Every person, corporation, partnership, or association, receiving any payments for admission to cabarets and other similar entertainments, or admitting any person free where admission is charged, must collect tax on such admissions from persons admitted or making such payments, and make monthly return and payment of collections as provided in section 503. (T. D. 2681; Mar. 26, 1918.)

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Carnivals.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent out door parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

Charitable institutions, entertainments for.

Where proceeds of admissions inure exclusively to benefit of charitable institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling; admissions to any entertainment for charity are taxable if funds are administered by any persons or organization other than religious, educational, or charitable institutions, societies, or organizations. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization, claiming exemption from collecting tax on admissions by reason of being charitable, required to file with collector of district affidavit upon stated Form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officer complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Children.

Tax imposed by section 700 of the act of October 3, 1917, on the admission of children under 12 years of age, must be collected in all cases at the full rate of 1 cent for each 10 cents or fraction thereof, except where distinctive tickets are issued for children under 12 years, or tickets for their use are indelibly stamped to show that they are good only for the admission of children under 12 years, or where, in absence of tickets, tax is paid at time of admission of children under 12 years; children under 12 years of age when admitted free are not taxable. (T. D. 2681; Mar. 26, 1918.)

Circuses.

Proprietor, manager, or duly authorized officer of traveling or itinerant shows, exhibitions, or amusement enterprises, which have fixed or established headquarters, required to register with collector of district in which headquarters are located, and required to file at same time, or as soon thereafter as possible, a schedule of the itinerary, and to keep a daily record and render monthly returns to the collector of said district. (T. D. 2681; Mar. 26, 1918.)

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

Collection of tax.

Tax imposed by section 700 of the act of October 3, 1917, is to be paid by the person paying for the admission, and must be collected by the proprietor of every place to which admissions are charged. (T. D. 2681; Mar. 26, 1918.)

Every person, corporation, partnership, or association, receiving any payments for admission, including admission to cabarets and other similar entertainments, or admitting any person free to any place where admission is charged, must collect the tax imposed by section 700 of the act of October 3, 1917, on such admissions, from the persons admitted or making such payments. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization, claiming exemption from collecting tax, required to file with collector of district affidavit upon stated Form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

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Collection of tax—Continued.

Where a broker purchases tickets for resale with right to return those not sold, or relation exists other than that of buyer and seller, proprietor of entertainment held responsible for collecting tax on full price paid by actual user of tickets; independent brokers and dealers in tickets must collect and account for tax on their sales; if ticket is sold for use and not for resale, at less than face value, seller must collect tax on face value, unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with seller; in case of season tickets and subscriptions, tax is to be collected at time of paying therefor, and where such tickets and subscriptions cover a period before and after November 1, 1917, tax should be collected upon first presentation of ticket or exercise of subscription right after October 31, 1917; the tax paid by person paying for admission must be collected by the proprietor of every place to which admissions are charged. (T. D. 2681; Mar. 26, 1918.)

Where a person or organization leases a theater, hall, park, or place, lessee is required by law to collect tax on admissions to entertainments or amusements conducted in such place, but for convenience of parties and safeguarding of the revenue, lessor will be permitted to assume responsibility for collection of tax. (T. D. 2681; Mar. 26, 1918.)

College entertainments.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

Computation of tax—Aggregate charge.

Where an admission charge is made at the main entrance and an additional charge is made for admission to seats, tables, or other space, tax is payable on aggregate charge. (T. D. 2681; Mar. 26, 1918.)

—— Cabarets.

Twenty per cent of total amount paid for refreshments, merchandise, service, couvert charge, etc., including any sum paid for seats and tables, at any public performance for profit, to which charge for admission is included in amount so paid, shall be deemed to be paid for admission, unless satisfactory evidence is submitted to Commissioner of Internal Revenue that different percentage should be fixed, on basis of which Commissioner shall approve different persentage; tax is at rate of 1 cent on each 10 cents or fraction thereof of such 20 per cent of total charge to each patron, and must be paid by person paying for such refreshment, service, etc., and can not be reckoned or paid by proprietor upon monthly gross receipts. (T. D. 2681; Mar. 26, 1918.)

—— Leases of boxes and seats.

Tax imposed by section 700 of the act of October 3, 1917, must be paid in respect to performance for which boxes or seats are sold or reserved, whether or not they are used; if there are no boxes of similar size, tax is to be computed by dividing tax payable on smaller box by number of seats in it and multiplying tax of seat by number of seats in larger box, and if there are no boxes occupying similar position tax is to be based on price of single seats in same part of house; in case of seats or boxes leased or reserved for period before and after November 1, 1917, tax is payable on admissions after October 31, 1917, and should be collected for all such admissions upon first use of box or seat after that date; where lease only entitles lessee to right of occupancy upon payment of regular price charged for admission, tax of 10 per cent is to be collected also on additional charge when paid. (T. D. 2681; Mar. 26, 1918.)

—— Resale of tickets.

Where all the admissions to an entertainment are sold en bloc to a purchaser for a specific sum and no charge is made for individual tickets, the tax is on the price paid for the entertainment, and the purchaser must account for the tax on any excess over the purchase price for which he may resell the tickets; where broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket

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Computation of tax—Continued.

—— **Resale of tickets**—Continued.

is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

Concessionaires.

Admissions of employees of concessionaires selling refreshments, etc., to patrons are exempt from tax under section 700 of act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Critic of performances.

Newspaper critics occupying space in audience must pay tax imposed by section 700 of act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Dances.

Where a dancing school charges an admission and additional charge for instruction, tax is only on admission, but if there is single charge for admission with instruction to those who wish it, tax is on entire charge; where admission charge is made to dancing pavilion and separate charge made for each dance for admission to dancing floor within pavilion, every admission to pavilion or dancing floor is taxable; charges of excursion boats providing opportunity for dancing are subject to tax where such charges exceed the usual or reasonable rates for transportation furnished. (T. D. 2681; Mar. 26, 1918.)

Where a dance hall charges no initial admission, if charge of not more than 5 cents is made for admission to dance floor for each dance, no tax is payable, but if charge is 10 cents for each dance or if purchase at one time of more than one 5-cent ticket is required, then tax is payable. (T. D. 2681; Mar. 26, 1918.)

Hotel, restaurant, or hall, affording, in connection with service of refreshment, food, or merchandise, entertainment in form of dancing by its patrons, is included in term "cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917; performance must be public and for profit, so that admissions to private dance given by society are not taxable if members and bona fide guests only are admitted, but admissions to public banquet, including dancing, are taxable if performance is for profit, as to the person, if any, who provides both the dinner and the entertainment. (T. D. 2681; Mar. 26, 1918.)

A dance hall located within an outdoor general amusement park loses its character as an "amusement within an outdoor general amusement park" during those seasons when the various other amusement ventures connected with the park are not operated, and admissions to such a dance hall are taxable if the charge for admission exceeds 5 cents. (T. D. 2782; Dec. 24, 1918.)

Corporation conducting dance hall is agent of Government to collect tax on admissions, and when T. D. 2590 was complied with it is not liable for failure to collect the tax until such time as it had actual or constructive notice of the modification of T. D. 2590 by issuance of Regulations No. 43. (T. D. 2782; Dec. 24, 1918.)

Payments for admissions to dances given by Home Guard to raise money for uniforms and other expenses are not exempt from admissions tax. (T. D. 2782; Dec. 24, 1918.)

Date tax effective.

Liability to tax imposed by section 700 of the act of October 3, 1917, depends upon the date of admission to any place; if on or after November 1, 1917, amount paid therefor is taxable, notwithstanding ticket may have been procured or admission paid for before that date. (T. D. 2681; Mar. 26, 1918.)

Definitions—"Agricultural fairs."

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

—— **"All the proceeds."**

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

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Definitions—Continued.

—— **"Outdoor general amusement parks."**

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

—— **"Place."**

The word "place," as used in section 700 of the act of October 3, 1917, is not defined in the section, but the context indicates that in general only admissions to places of amusement and entertainments were intended to be taxable. (T. D. 2681; Mar. 26, 1918.)

Deposits of payments for taxes.

Collector of internal revenue may, in his discretion, require the person receiving payments for taxes to make daily deposit of sums so received in special account in such bank as collector shall designate. (T. D. 2681; Mar. 26, 1918.)

Doctors for theaters.

Doctors for theaters are exempt from tax imposed by section 700 of act of October 3, 1917, when entering theater in course of their employment, but must pay it when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

Educational institutions, entertainments for.

Where proceeds of admissions inure exclusively to benefit of educational institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling; admissions to any entertainment for charity are taxable if funds are administered by any persons or organization other than religious, educational, or charitable institutions, societies, or organizations; admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or to the college. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization, claiming exemption from collecting tax on admissions by reason of being educational, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Employees.

Bona fide employees when admitted free are not taxable under section 700 of act of October 3, 1917; employees include persons necessary to the production of the performance or entertainment who are not admitted as spectators and who do not occupy seats or space intended for the use of spectators, except where such occupancy is necessary to the performance of duties of such persons; baseball reporters and telegraphers are exempt, as are employees of management or other concessionaires selling refreshments to patrons, and newsboys selling newspapers; persons recovering or aiding in custody of property necessary to performance may be admitted tax free, but newspaper critics and reporters occupying space in audience must pay tax; doctors and attorneys for theaters are exempt when entering theater in course of employment. (T. D. 2681; Mar. 26, 1918.)

En bloc sale of tickets.

Where all the admissions to an entertainment are sold en bloc to a purchaser for a specific sum and no charge is made for individual tickets, the tax is on the price paid for the entertainment, but purchaser must account for tax on any excess over the purchase price for which he may resell the tickets; where all the admissions are sold to an organization or society for a specific sum, the tickets sold by such organization or society shall be exchanged for regular box-office tickets, for which proprietor must account. (T. D. 2681; Mar. 26, 1918.)

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En bloc sale of tickets—Continued.

Where all admissions to an entertainment are sold to an organization or society for a specific sum, the tickets sold by such organization or society shall be exchanged for regular box-office tickets, for which proprietor must account. (T. D. 2681; Mar. 26, 1918.)

Exchange of tickets.

Upon an exchange of tickets for other tickets of a higher price, the difference between the tax on the more expensive tickets and the tax already paid shall be collected. (T. D. 2681; Mar. 26, 1918.)

When general admission tickets are sold by societies or organizations leasing theaters, halls, parks, or places, they must be exchanged for regular box-office tickets for which proprietor must account. (T. D. 2681; Mar. 26, 1918.)

Excursion boats.

Charges of excursion boats providing opportunity for dancing, are subject to tax imposed by section 700 of act of October 3, 1917, where such charges exceed the usual or reasonable rates for transportation furnished. (T. D. 2681; Mar. 26, 1918.)

Exemptions—Affidavit.

Every institution, society, or organization, claiming exemption from collecting tax, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

—— Agricultural fairs.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

—— Attorneys for theaters.

Attorneys for theaters are exempt from tax imposed by section 700 of the act of October 3, 1917, when entering theater in course of their employment, but must pay tax when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

—— Business.

If person admitted free to place of entertainment attends purely for business reasons and does not occupy space that might otherwise be sold, tax provided by section 700 of the act of October 3, 1917, is not payable. (T. D. 2681; Mar. 26, 1918.)

—— Children.

Children under 12 years of age when admitted free are not taxable under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

—— Doctors.

Doctors for theaters are exempt from tax imposed by section 700 of the act of October 3, 1917, when entering theater in course of their employment, but must pay tax when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

—— Employees.

Bona fide employees when admitted free are not taxable under section 700 of act of October 3, 1917; employees include persons necessary to the production of the performance or entertainment who are not admitted as spectators and who do not occupy seats or space intended for the use of spectators, except where such occupancy is necessary to the performance of duties of such persons; baseball reporters and telegraphers are exempt, as are employees of management or of concessionaires selling refreshments to patrons, and newsboys selling newspapers; persons recovering or aiding in custody of property necessary to performance may be admitted tax free, but newspaper critics and reporters occupying space in audience must pay tax; doctors and attorneys for theaters are exempt when entering theater in course of employment. (T. D. 2681; Mar. 26, 1918.)

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Exemptions—Continued.

—— **Entertainments exempt.**

Where proceeds of admission inure exclusively to benefit of religious, educational, or charitable institutions, societies, or organizations, the admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling. (T. D. 2681; Mar. 26, 1918.)

Where a place has admission charges in excess of 5 cents, tax imposed by section 700 of act of October 3, 1917, is applicable to all admissions, including charges of 5 cents or less; if place charges no more than 5 cents in afternoon, and more than 5 cents in evening, tax applies to all admissions when higher rate is effective; where dance hall charges no initial admission, if charge of not more than 5 cents is made for admission to dance floor for each dance, no tax is payable, but if charge is 10 cents for each dance, or if purchase at one time of more than one 5-cent ticket is required, then tax is payable. (T. D. 2681; Mar. 26, 1918.)

—— **"Four Minute Men."**

"Four Minute Men," who make short talks in interest of the Government at various places where admissions are usually charged, not there for purpose of viewing performance, are not required to pay tax. (T. D. 2590; Nov. 24, 1917.)

—— **Merry-go-rounds.**

Exemption of charges which are in fact for privilege of using equipment in amusement parks is intended to apply to those cases where use by the patron is direct, personal, and independent, and therefore not to merry-go-rounds. (T. D. 2782; Dec. 24, 1918.)

—— **Municipal officers.**

Municipal officers on official business when admitted free are not taxable under section 700 of the act of October 3, 1917; municipal officers include policemen and firemen when in attendance in the course of their duty. (T. D. 2681; Mar. 26, 1918.)

—— **Newspaper reporters, critics, etc.**

Newspaper critics and reporters occupying space in audience must pay tax; baseball reporters occupying special space at baseball parks and admitted by passes issued by baseball writers' association, and newsboys selling newspapers, are exempt. (T. D. 2681; Mar. 26, 1918.)

Free admissions.

Free admissions are taxable at same rate as paid admissions entitling to similar accommodations; holder of pass for single admission required to pay tax, at option of proprietor, when pass is issued (it then to be stamped "Tax paid"), or when it is presented for admission, and holder of season pass required to pay tax, at option of proprietor, when it is issued (it then to be stamped "Tax paid"), on all admissions to which pass entitles, or whenever it is presented, on each single admission; tax must be paid by holder of pass; when pass is "Tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered; admission of lady on gentleman's ticket without extra charge is not taxable, because same ticket covers both, even though unaccompanied lady must pay same admission as gentleman. (T. D. 2681; Mar. 26, 1918.)

Bona fide employees, municipal officers on municipal business, and children under 12 years of age when admitted free, are not taxable; application of ruling to baseball reporters and telegraphers, employees of management or of concessionaires selling refreshments, newsboys selling newspapers, newspaper critics and reporters, and doctors and attorneys for theaters. (T. D. 2681; Mar. 26, 1918.)

Every person, corporation, organization, or association, admitting any person free to any place where admission is charged, must collect tax on such admissions from the persons admitted, and make monthly return and payment of collections as provided in section 503. (T. D. 2681; Mar. 26, 1918.)

Golf links.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as golf links, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

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Itinerant shows.

Proprietor, manager, or duly authorized officer of traveling or itinerant shows, exhibitions, or amusement enterprises, which have fixed or established headquarters, required to register with collector of district, in which headquarters are located, and required to file at same time, or as soon thereafter as possible, a schedule of the itinerary, and to keep a daily record and render monthly returns to the collector of said district. (T. D. 2681; Mar. 26, 1918.)

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

Lady admitted on gentleman's ticket.

Admission of lady on gentleman's ticket without extra charge is not taxable because same ticket covers both, even though unaccompanied lady must pay same admission as gentleman. (T. D. 2681; Mar. 26, 1918.)

Leases—Boxes and seats.

Tax imposed by section 700 of the act of October 3, 1917, must be paid in respect to performance for which boxes or seats are sold or reserved, whether or not they are used; if there are no boxes of similar size, tax is to be computed by dividing tax payable on smaller box by number of seats in it and multiplying tax of seat by number of seats in larger box, and if there are no boxes occupying similar position, tax is to be based on price of single seats in same part of house; in case of seats or boxes leased or reserved for period before and after November 1, 1917, tax is payable on admissions after October 31, 1917, and should be collected, for all such admissions upon first use of box or seat after that date; where lease only entitles lessee to right of occupancy upon payment of regular price charged for admission, tax of 10 per cent is to be collected also on additional charge when paid. (T. D. 2681; Mar. 26, 1918.)

—— Theaters.

When a person or organization leases a theater, hall, park, or place, lessee must collect tax on admissions to entertainments or amusements conducted at such place, but lessor is permitted to assume responsibility for collection of tax; if this is done, lessee will sell tickets from reels or supplies of proprietor, and record will be kept in daily records of lessor in same manner as if entertainment had been conducted by proprietor, but in addition, name of lessee must appear in a space provided in such record, and lessee shall certify to correctness of record; exchange of general admission tickets for regular box-office tickets; notice of lease to collector; en bloc sale of tickets; effect of failure to adopt procedure authorized. (T. D. 2681; Mar. 26, 1918.)

Live-stock shows.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

Motion picture theaters.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

Municipal officers.

Municipal officers on official business when admitted free are not taxable under section 700 of the act of October 3, 1917; municipal officers include policemen and firemen when in attendance in the course of their duty. (T. D. 2681; Mar. 26, 1918.)

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Nature of admissions taxed.

The context of section 700 of the act of October 3, 1917, indicates that in general only admissions to places of amusement and entertainment were intended to be taxable; where an admission charge in form is made, but in fact is merely a payment for the privilege of using certain equipment, the admission is incidental to the privilege of using such equipment, and tax does not apply, but where charge is made both to persons using equipment and to mere spectators, tax applies. (T. D. 2681; Mar. 26, 1918.)

Newspaper reporters, critics, and newsboys.

Newspaper critics and reporters occupying space in audience must pay tax imposed by section 700 of act of October 3, 1917; admissions of baseball reporters occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, and newsboys selling newspapers, are exempt. (T. D. 2681; Mar. 26, 1918.)

Outdoor general amusement parks.

Admissions to shows, rides, and other amusements charging no higher admission than 10 cents, within outdoor general amusement parks, and admissions to outdoor general amusement parks, are not taxable. (T. D. 2681; Mar. 26, 1918.)

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

Passes.

Free admissions are taxable at same rate as paid admissions entitling to similar accommodations; holder of pass for single admission required to pay tax, at option of proprietor, when pass is issued (it then to be stamped "Tax paid,") or when it is presented for admission, and holder of season pass required to pay tax, at option of proprietor, when it is issued (it then to be stamped "Tax paid,") on all admissions to which pass entitles, or whenever it is presented, on each single admission; tax must be paid by holder of pass; where pass is "Tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered; admission of lady on gentlemen's ticket without extra charge is not taxable, because same ticket covers both, even though unaccompanied lady must pay same admission as gentleman. (T. D. 2681; Mar. 26, 1918.)

Bona fide employees, municipal officers on municipal business, and children under 12 years of age when admitted free, are not taxable; application of ruling to baseball reporters and telegraphers, employees of management or of concessionaires selling refreshments, newsboys selling newspapers, newspaper critics and reporters, and doctors and attorneys for theaters. (T. D. 2681; Mar. 26, 1918.)

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return, irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

Unless at time either ticket is sold or pass is issued the words "Tax paid" shall be indelibly and conspicuously stamped or printed thereon, it shall not be good for admission, except upon payment of tax at time of admission; no ticket or pass expressed to be "Tax paid" shall be issued without collection of the tax. (T. D. 2681; Mar. 26, 1918.)

Payment of tax.

Tax must be paid by person paying for admission; proprietor may not pay tax for his patrons, and no place where taxable admissions are charged will be permitted to display any sign, notice, or placard to the effect that the war tax is not charged; by appropriate signs and by notices printed in programs for reasonable period, public should be informed that tax is required to be paid by person paying for the admission. (T. D. 2681; Mar. 26, 1918.)

The holder of a pass for a single admission required to pay tax, at option of proprietor of place of entertainment, when pass is issued (it then to be stamped "Tax paid") or when it is presented for admission; holder of season pass required to pay

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Payment of tax—Continued.

tax, at option of proprietor, when it is issued (it then to be stamped "Tax paid") on all admissions to which the pass entitles, or whenever it is presented, on each single admission; tax is to be paid by holder of pass. (T. D. 2681; Mar. 26, 1918.)

Unless at time every ticket is sold or pass is issued the words "Tax paid" shall be indelibly printed or stamped thereon, it shall not be good for admission except on payment of tax at time of admission. (T. D. 2681; Mar. 26, 1918.)

In the case of cabarets, tax of 1 cent on each 10 cents or fraction thereof of 20 per cent of the total charge to each patron must be paid by person paying for refreshments, service, merchandise, etc.; it can not be reckoned or paid by the proprietor upon monthly gross receipts. (T. D. 2681; Mar. 26, 1918.)

Penalties.

In addition to penalties provided by section 1004 of the act of October 3, 1917, for failure to make the return, other punishment for failure to comply with law and regulations is prescribed by section 3176, Revised Statutes, as amended, and by other sections of internal-revenue laws; doorkeepers and other employees of amusement enterprises, equally with proprietors and with persons admitted, will be prosecuted for any violation of the law. (T. D. 2681; Mar. 26, 1918.)

Piers, shows on.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

"Place."

The word "place," as used in section 700 of the act of October 3, 1917, is not defined in the section, but the context indicates that in general only admissions to places of amusement and entertainment were intended to be taxable. (T. D. 2681; Mar. 26, 1918.)

Pool tables.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as pool tables, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

Proceeds.

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

Records.

See "Registration of proprietor," *post*.

Unless institution, society, or organization claiming exemption from collecting tax files with collector, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit, sufficiently before date of entertainment to permit of full advance investigation of circumstances and decision thereon, affidavit upon specified form, managers of entertainment required to keep and exhibit to internal-revenue officers complete record of admissions to each performance. (T. D. 2681; Mar. 26, 1918.)

Daily records shall be kept by proprietors or their agents in charge showing separately paid admissions, childrens' admissions, taxable free admissions, if admission is not taxable, and total admission tax collected on each class for each performance, and by ticket brokers, showing tickets sold for each entertainment, proceeds, cost of tickets, and tax returnable; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729 and to be transmitted to office of collector on or before last day of month following that for which return is made; where performance is given by person other than proprietor, both he and the proprietor, or his agent in charge, must sign daily records; records of proprietors and ticket brokers, with copies of monthly returns, required to be kept or filed in place of business for two years, in such manner as to be readily accessible to internal-revenue officers. (T. D. 2681; Mar. 26, 1918.)

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Records—Continued.

Where a person or organization leases a theater or place and lessor assumes responsibility for collection of tax, lessee will sell tickets from reels or supplies of proprietor and record will be kept in daily records of lessor in same manner as if entertainment had been conducted by proprietor, but, in addition, name of lessee must appear in space provided in daily record, and lessee shall certify to correctness of such record; if procedure authorized is not adopted, lessee must comply in every respect with Regulations No. 43 regarding registration, records, and other matters therein contained. (T. D. 2681; Mar. 26, 1918.)

Redemption of tickets.

Where a ticket is redeemed before a performance, the tax imposed by section 700 the act of October 3, 1917, as well as the price of the ticket, should be refunded. (T. D. 2681; Mar. 26, 1918.)

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

Refund of tax.

Where a ticket is redeemed before a performance, the tax imposed by section 700 of the act of October 3, 1917, as well as the price of the ticket, should be refunded; where a pass is "tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered by it. (T. D. 2681; Mar. 26, 1918.)

Registration of proprietor.

Every person, corporation, etc., required to collect tax on admissions, shall, on the 1st day of April, 1918 (and if not on that date engaged in business, then within 10 days after engaging in business), and annually thereafter on the 1st day of July, file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business, or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

Where a theater, hall, park, or place, is leased, and the procedure authorized by Article XXVII of Regulations 43 is not adopted, the lessee, precisely like the proprietor, must comply in every respect with the regulations regarding registration. (T. D. 2681; Mar. 26, 1918.)

Religious institutions, entertainments for.

Every institution, society, or organization, claiming exemption from collecting tax on admissions by reason of being religious, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Where proceeds of admissions inure exclusively to benefit of religious institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given, and not purpose of particular benefit, is controlling; admissions to any entertainment given for charity are taxable if funds are administered by any persons or organization other than religious, educational, or charitable institutions, societies, or organizations. (T. D. 2681; Mar. 26, 1918.)

Resale of tickets.

Where all the admissions to an entertainment are sold en bloc to a purchaser for a specific sum and no charge is made for individual tickets, the tax is on the price paid for the entertainment, and the purchaser must account for the tax on any excess over the purchase for which he may resell the tickets; where broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales,

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Resale of tickets—Continued.

less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

Where all admissions are sold to an organization or society for a specific sum, the tickets sold by such organization or society shall be exchanged for regular box-office tickets, for which proprietor must account. (T. D. 2681; Mar. 26, 1918.)

Returns—Baseball tickets.

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

—— Cabaret proprietors.

Cabaret proprietors must furnish each guest, upon paying his check, a coupon receipt to be detached therefrom, containing separately in indellible figures the total of the amount paid for refreshments, etc., and the war tax paid thereon; the checks and coupons must be serially numbered. (T. D. 2681; Mar. 26, 1918.)

—— Lease of place.

When a person or organization leases a theater or place, and lessor assumes responsibility for collection of tax, record of entertainment or amusement will be kept in daily records of lessor in same manner as if entertainment had been conducted by proprietor, but in addition, name of lessee must appear in space provided in daily record, and lessee shall certify to correctness of such record; effect of failure to adopt procedure authorized. (T. D. 2681; Mar. 26, 1918.)

—— Penalties for failure to make.

In addition to penalties provided by section 1004 of the act of October 3, 1917, for failure to make the return, other punishment for failure to comply with law and regulations is prescribed by section 3176, Revised Statutes, as amended, and by other sections of internal revenue laws; doorkeepers and other employees of amusement enterprises, equally with proprietors and with persons admitted, will be prosecuted for any violation of the law. (T. D. 2681; Mar. 26, 1918.)

—— Persons, corporations, etc., required to make.

Every person, corporation, partnership, or association, receiving any payments for admission, including admission to cabarets and other similar entertainments, or admitting any person free to any place where admission is charged, must collect the tax imposed by section 701 of the act of October 3, 1917, on such admissions, from the persons admitted or making such payments, and make monthly return and payment of collections as provided in section 503. (T. D. 2681; Mar. 26, 1918.)

—— Reasonable cause for delinquency.

Where delinquency in filing admissions tax return, under act of October 3, 1917 was due to fact that head bookkeeper on theater tickets, reports, etc., had enlisted in United States Navy and it was impossible for taxpayer to make a return on time with substitute help, there was reasonable cause for delinquency within meaning of section 3176, Revised Statutes. (T. D. 2795; Feb. 26, 1919.)

—— Season tickets or passes.

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

"Revenue tickets."

Where theaters are not permitted to charge admission but take silver collection at the door, there is no objection to selling what is known as "revenue tickets" with each contribution, a 10-cent contributor paying 11 cents, etc. (T. D. 2590; Nov. 24, 1917.)

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Scalpers' tickets.

Ticket brokers required to keep daily records showing tickets sold for each entertainment; proceeds; cost of tickets and tax returnable; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729 and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made; daily record of brokers, with copies of their monthly returns, required to be kept on file for two years, in such manner as to be readily accessible to internal revenue officers. (T. D. 2681; Mar. 26, 1918.)

Where a broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

Ticket brokers required to collect tax on admissions, shall, on the 1st day of April, 1918 (and if not on that date engaged in business, then within 10 days after engaging in business), and annually thereafter on the 1st day of July, file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business, or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

Season tickets and passes.

Holder of season pass required to pay tax imposed by section 700 of act of October 3, 1917, at option of proprietor, when it is issued (it then to be stamped "Tax paid"), on all admissions to which pass entitles, or whenever it is presented, on each single admission; tax is to be paid by holder of pass; where pass is "Tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered by it. (T. D. 2681; Mar. 26, 1918.)

Tax imposed by section 700 of act of October 3, 1917, is to be collected upon price paid and at time of paying for season tickets; no refund of any part of the tax is authorized because one or more performances may be missed; in case of tickets covering period before and after November 1, 1917, tax is payable on proportion of price paid representing admissions on and after November 1, 1917, and should be collected upon first presentation of the ticket after October 31, 1917. (T. D. 2681; Mar. 26, 1918.)

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return, irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

When a Chautauqua bureau presents a Chautauqua under the usual form of agreement with a local body by which latter subscribes for season tickets and receives them to resell to the public, the admissions tax is payable on (1) amount paid by local body to the bureau, regardless of number of tickets not resold or not used, on (2) any excess received by local body from resale of tickets over the amounts so paid by it, and also on (3) all admissions other than by tickets so sold to the local body. (T. D. 2782; Dec. 24, 1918.)

Separate admissions.

As the tax imposed by section 700 of the act of October 3, 1917, is 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, tax can not be paid on the total receipts but must be collected on each separate admission. (T. D. 2681; Mar. 26, 1918.)

Signs—Admission charged, tax due, and total thereof.

Persons charging taxable admissions required to keep conspicuously posted in their places of business signs accurately stating prices charged for admission, tax due on each admission, and total of admission and tax; where entertainment enterprises, finding it impracticable to handle pennies or for other reasons, have advanced their prices 5 or 10 cents, including tax in the advance, conspicuous signs must announce, "The charge for a [denomination] ticket includes the tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission." (T. D. 2681; Mar. 26, 1918.)

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Signs—Continued.

——Persons liable for, and object of, tax.

By appropriate signs and by notices printed in programs for reasonable period, public should be informed that tax imposed by section 700 of the act of October 3, 1917, is required to be paid by person paying for admission, and that amount collected goes to United States Government for war purposes. (T. D. 2681; Mar. 26, 1918.)

—— Tax not charged.

No place where taxable admissions are charged will be permitted to display any sign, notice, or placard, to the effect that the war tax is not charged. (T. D. 2681; Mar. 26, 1918.)

Subscriptions.

Tax imposed by section 700 of act of October 3, 1917, is to be collected upon price paid and at time of paying for subscriptions; no refund of any part of tax is authorized because one or more performances may be missed; in case of subscriptions covering period before and after November 1, 1917, tax is payable on proportion of price paid representing admissions on and after November 1, 1917, and should be collected upon first exercise of the subscription right after October 31, 1917. (T. D. 2681; Mar. 26, 1918.)

Swimming pools.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as swimming pools, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

Tennis courts.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as tennis courts, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T D. 2681; Mar. 26, 1918.)

Tickets—Season tickets.

See "Season tickets and passes," *ante*.

—— Serial numbers.

Proprietors of place where admission is charged must sell serially-numbered tickets or use machine or device giving similar information, except such proprietors as use detached tickets valid only on date printed thereon, or use permanent tickets for repeated performances; proprietors making first purchase of serial reel tickets, after Regulations No. 43 become effective, required to order such tickets to start with number 1, their tickets to thereafter run in serial order until the number 500,000 is reached, when they may start again at number 1, if so desired. (T. D. 2681; Mar. 26, 1918.)

—— "Tax paid."

Unless at time either ticket is sold or pass is issued the words "Tax paid" shall be indelibly and conspicuously stamped or printed thereon, it shall not be good for admission except upon payment of tax at time of admission; no ticket or pass expressed to be "Tax paid" shall be issued without collection of the tax. (T. D. 2681; Mar. 26, 1918.)

—— Uncalled-for or unused tickets.

See "Uncalled-for or unused tickets or passes," *post*.

Traveling shows or amusement enterprises.

See "Itinerant shows," *ante*.

Turkish baths.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as Turkish baths, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

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Uncalled-for or unused tickets or passes.

Tax imposed by section 700 of act of October 3, 1917, must be paid on tickets sold and not called for which theater reserves no right to sell; in the case of season tickets and subscriptions, no refund of any part of the tax is authorized because one or more performances may be missed; where pass is "Tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered by it. (T. D. 2681; Mar. 26, 1918.)

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return, irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

Tax imposed by section 700 of the act of October 3, 1917, must be paid in respect to performance for which boxes or seats are sold or reserved, whether or not they are used. (T. D. 2681; Mar. 26, 1918.)

Vaudeville.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or itinerant amusement enterprises within temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

"Cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, includes every hotel or room therein, restaurant, hall, or other public place at or in which, in connection with the service or sale of food, or other refreshments or merchandise, any vaudeville or other performance or diversion in the way of acting, singing, declamation, or dancing, is conducted. (T. D. 2681; Mar. 26, 1918.)

Zoological park.

Admissions to public zoological parks and other entertainment enterprises conducted by or under direction of Government or State, or political subdivision of either, are not taxable. (T. D. 2681; Mar. 26, 1918.)

ADULTERATED BUTTER.

Decision of Commissioner.

Under the oleomargarine act of August 2, 1886, section 14, and the adulterated butter act of May 9, 1902, section 4, where there has been a hearing on contested facts and arbitrary conduct in the legal sense is not complained of, decision of Commissioner that certain substance or compound constitutes adulterated butter is final and may not be attacked in any action at law to recover back tax and penalty paid under protest. (T. D. 2803; Mar. 12, 1919. Ct. Dec.)

ADVANCE PAYMENT.

Capital stock tax.

Capital stock tax imposed by act September 8, 1916, became effective January 1, 1917, and is to be paid annually in advance for each year beginning July 1, except as to first payment for six months ending June 30, 1917; the tax due July 1, 1918, is an excise tax payable in advance for privilege of doing business from July 1, 1918, to June 30, 1919. (T. D. 2750, art. 1, Appendixes A, B; Aug. 9, 1918.)

Estate tax.

Section 204, act September 8, 1916, does not contemplate that immediately after decedent's death, or at any time before expiration of year executor may make partial payment on account of tax and receive credit for discount because of advance payment; if advance payment is to be made before due date, estate must be in position to file final return on Form 706, showing certain data; final return must be filed wherever advance payment is desired, and amount paid should be entered upon collector's assessment list for month in which paid as advance collection. (T. D. 2756; Sept. 5, 1918.)

Income and excess profits taxes.

Instructions with reference to time for making advance payments in installments or in whole, of income and excess profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

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ADVERTISEMENT.

Medicinal preparations.

See "Excise Taxes."

AFFIDAVITS.

See specific heads.

AFFILIATED CORPORATIONS.

Definition.

Two or more corporations are not "affiliated" merely because all or substantially all of the stock therein is owned by the same corporation, individual, or partnership; they must also be engaged in the same or a closely related business. (T. D. 2662; Mar. 6, 1918.)

Excess profits tax—Returns.

Owner shall include specific statement of number or proportion of shares in affiliated corporations held by parent corporation during taxable year and a schedule showing proportionate amount of total tax which it is agreed among them is to be assessed upon each affiliated corporation; affiliated corporation to file return showing that corporation is affiliated with parent corporation, that its return is included in consolidated return of such parent corporation, and district in which consolidated return is filed. (T. D. 2662; Mar. 6, 1918.)

Consolidated return will be required in case of affiliated corporations among which there exist contracts or trade or financial practices which arbitrarily or beneficially influence or determine the amount of the invested capital or net income of one or more of the corporations so affiliated and where 95 per cent or more of the stock of the subsidiary affiliated corporations is owned by a parent or controlling corporation or by an individual or partnership. (T. D. 2662; Mar. 6, 1918.)

Returns shall be filed by parent or principal corporation in office of collector of district in which it has its principal office; each of other affiliated corporations shall file return in office of collector of its respective district; contents of return stated. (T. D. 2662; Mar. 6, 1918.)

Railroads, gas, electric, water, or other public service corporations when operated independently and not physically connected or merged—particularly when situated in different jurisdictions and subject to regulation by public service commissions—will not be required or permitted without special permission obtained in advance, to make a consolidated return; when public utility is owned by industrial corporation and is operated as a plant facility, or as an integral part of a group organization of affiliated corporations and such corporations are required to file consolidated return, return of such public utility shall be included therein. (T. D. 2662; Mar. 6, 1918.)

If Commissioner of Internal Revenue, upon examination of any consolidated return, finds that tax can not, in his judgment, be properly assessed upon basis of such return, affiliated corporations covered by such consolidated return, shall, upon notice from the Commissioner, file separate returns. (T. D. 2662; Mar. 6, 1918.)

Corporations must describe in returns all intercorporate relationships with other corporations with which affiliated, and must furnish such information in relation thereto as will enable Commissioner of Internal Revenue to compute amount of tax properly due from each corporation on basis of equitable and lawful accounting; circumstances under which two or more corporations will be deemed to be affiliated, stated. (T. D. 2694; art. 77.)

Whenever necessary to more equitably determine the invested capital or taxable income, Commissioner of Internal Revenue may require affiliated corporations to furnish consolidated return of net income and invested capital; such return may be made by any one or more of such corporations or by all acting jointly; in case of neglect or refusal to furnish return, Commissioner may cause examination of books of all such corporations to be made, and consolidated statement to be made from such examination; where returns are accepted total tax will be computed in first instance as unit on basis of consolidated return and will be assessed upon respective affiliated corporations in such proportions as may be agreed among them, but if no such agreement is made tax will be assessed upon each corporation in accordance with net income and invested capital properly assignable to it. (T. D. 2694; art. 78.)

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Excess profit tax—Returns—Continued.

When all, or substantially all, of stock of subsidiary corporation was acquired for cash, cash so paid shall be basis to be used in determining value of property acquired; where stock of subsidiary company was acquired with stock of parent company, amount to be included in consolidated invested capital in respect of company acquired shall be computed in same manner as if net tangible assets and intangible assets had been acquired instead of the stock; if in accordance with such acquisition a paid-in surplus is claimed, such claim shall be subject to provisions of articles 55 and 63 of Regulations 41. (T. D. 2901; July 29, 1919.)

Where affiliated corporation has made its income tax return on basis of taxable year different from that on basis of which consolidated excess profits tax return in which it is included has been made under provisions of articles 77 and 78 of Regulations No. 41 and of T. D. 2662, amended income tax return may be made on basis of same taxable year as consolidated return, even though notice was not given within time prescribed in articles 211 and 215, inclusive, of Regulations No. 33, revised; in such case amended income tax return shall also be made for any unaccounted-for portion of the corporation's taxable year. (T. D. 2805; Mar. 14, 1919.)

AFFIRMATION.

Verifications of returns, etc.

See specific heads.

AGENTS.

See "Principal and Agent."

AGRICULTURE.

Agricultural fairs—Definition.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

Agricultural organizations—Capital stock tax.

Agricultural organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Provision of article 2 of Regulations 38, exempting agricultural organizations, only applies to those organizations that are engaged in that business merely for the general welfare and benefit of the public, such as agricultural fairs or exhibitions; a corporation engaged in general farming, raising cattle, or the agricultural business for profit is liable to the tax. (T. D. 2417; Dec. 16, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— Income taxes—Exemptions.

Agricultural organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Agricultural organizations do not include corporations engaged in growing agricultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

—— —— Gross income.

Corporations engaged in operating plantations, ranches, stock farms, poultry farms, and lands used for raising fruit, truck, etc., including orchards of all kinds, shall make their returns on the basis of the products actually marketed and sold during the year, whether such products were produced or purchased and resold. (T. D. 2690; art. 129.)

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Agricultural organizations—Continued.

—— **Income taxes—Continued.**

—— —— **Net incomes—Continued.**

All deductions by corporations engaged in operating plantations, ranches, etc., shall be based upon legitimate expense incident to current year whether for production of present or future years, except that in case wherein corporation is engaged in producing crops which take more than a year from time of planting to process of gathering and disposing, income reported and expenses deducted should be determined upon crop basis. (T. D. 2690; art. 123. But see T. D. 2665; Mar. 8, 1918.)

In determining cost of stock for purpose of ascertaining deductible loss there shall be taken into account only the purchase price and not the cost of any feed, pasturage or care which has been deducted as an expense of operations. (T. D. 2690; art. 123.)

Excise taxes—Tractors.

Tractors for pulling agricultural implements are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

Income-tax returns by farmers.

See "Farmers."

ALASKA.

Alcoholic liquors.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Excise taxes.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its island or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Public utilities.

See "Transportation Tax."

Stamp taxes.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii and the Territory of Alaska) and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

ALCOHOL.

Alaska—Manufacture and sale.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Antiseptic mixtures.

Formulas for mixture of alcohol withdrawn for use in hospitals, etc., with an antiseptic stated; application for permit and bond. (T. D. 2496; May 31, 1917.)

Apothecaries will not be charged with liability to special tax on account of sale in quantities not exceeding 1 pint of alcohol for bathing or antiseptic purposes, providing it is compounded prior to sale, but not in bulk or in advance of orders, in such manner as to make it unfit for use as beverage; approved formulas for purpose of rendering alcohol unfit for beverage stated; containers of alcohol treated in such manner must bear "poison" labels. (T. D. 2760; Oct. 9, 1918. T. D. 2788: Feb. 6, 1919.)

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Denatured alcohol—Acetone content.

Specifications for acetone content in denaturing grade of wood alcohol changed so as to contain not more than 10 grams nor less than 3 grams per 100 c. c. of acetone and other substances estimated as acetone. (T. D. 2587; Nov. 21, 1917. See T. D. 2268; Dec. 4, 1915.)

T. D. 2587 revoked, and Article V of Regulations No. 30, providing that wood alcohol used in denaturing shall contain not more than 20 grams nor less than 10 grams of acetone, or other substances estimated as acetone, per 100 c.c., when tested by the Messinger method, again made effective; wood alcohol complying with T. D. 2587, on hand or in transit, permitted to be used for denaturing purposes until and on January 31, 1919. (T. D. 2779; Dec. 17, 1918.)

—— Bond of manufacturer.

If the penal sum of a "Manufacturer's bond for special denatured alcohol" (Form 583 or Form 582A) is in excess of liability to tax at rate of $3.20 per gallon, imposed by act of October 3, 1917, new bond will not be required, provided recovery clause in bond has been stricken out; if such clause has not been stricken out new bond will be required. (T. D. 2578; Oct. 31, 1917.)

—— Bulk quantity denaturation.

Persons permitted to denature alcohol in bulk quantities are proprietors of distilleries having denatured bonded warehouses on their distillery premises, proprietors of central denaturing bonded warehouses, and proprietors of industrial distilleries established under the act of October 3, 1913; a pharmacist is in no sense a denaturer of alcohol, nor are described agents regarded as satisfactory for denaturation of alcohol in bulk quantities. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

—— Containers.

Steel drums and packages, without wooden heads or lead plates, may be used as containers for denatured alcohol, provided that in case of specially denatured alcohol one end of each such package is painted yellow, upon which painted end required marks and brands shall be stenciled and stamps affixed; stamps required to be protected with coating of shellac or varnish impervious to water; packages intended to contain completely denatured alcohol are to be painted light green color; articles 36 and 37 of Regulations No. 30 modified. (T. D. 2824; Apr. 22, 1919.)

—— Denaturing materials.

Where chemically or commercially pure or a U. S. P. salt or solid is used as a denaturing material, same need not be submitted for test, provided material is delivered to storekeeper-gauger in charge in a sealed package, bearing seal and label descriptive of its contents placed thereon by reputable manufacturer of chemicals. (T. D. 2434; Jan. 18, 1917.)

—— Distilleries.

Distillers producing alcohol from foods, fruits, food materials, or feed for denaturation only, under act of October 3, 1913, required to comply with regulations of Commissioner of Internal Revenue, relating to such distillation and denaturation. (T. D. 2523; Sept. 11, 1917.)

Alcohol produced at industrial distilleries must be denatured on the distillery premises where produced, and vacuum stills may be used in lieu of more ordinary types, if desired; manner of construction of industrial distilleries stated. (T. D. 2564; Oct. 26, 1917.)

Industrial distilleries and central distilling and denaturing plants are exempted from the provisions of section 3264, Revised Statutes, requiring that surveys of distilleries be made to determine true spirit-producing capacities thereof for a day of 24 hours. (T. D. 2728; June 8, 1918.)

—— Fermented malt liquors.

Supervision over removal of taxable fermented liquor from brewery to distillery and over operation of distillery and denaturation of product will be exercised by pipe-line deputy where one is on duty, or in cases where there is no such deputy or he is unable to perform required duties, a storekeeper-gauger will be assigned

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Denatured alcohol—Continued.

—— **Fermented malt liquors**—Continued.

in the usual manner to the distillery, with compensation not less than $3 nor more than $4 per day. (T. D. 2564; Oct. 26, 1917.)

Fermented malt liquor may be conveyed by pipe line without tax payment from brewery premises where produced to contiguous industrial distillery of either class established under act of October 3, 1913, there to be used as distilling material, where the brewery premises and the industrial distillery premises are separate and distinct, and for which requisite notices and bonds shall have been given; must be complete separation by substantial unbroken partitions between brewery and distillery from cellar to roof where they are in same building or separate buildings immediately adjoining. (T. D. 2564; Oct. 26, 1917.)

—— **Formulas.**

Formula, designated as No. 23, for special denaturation of alcohol to be used in manufacture of liniment, stated; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants; permission required to use special denaturant in any central distilling and denaturing plant, as provided in articles 2 and 19, of supplement No. 2 to Regulations 30. (T. D. 2379; Oct. 6, 1916.)

Formula for special denaturation of alcohol to be used in manufacture of phenacetin, stated; it is understood that no part of alcohol remains in finished product which must meet specifications of United States Pharmacopœia, and that formula is to be used in completed process for manufacture of phenacetin and not merely for any one stage, and that process is to be closed and continuous. (T. D. 2381; Oct. 16, 1916.)

Formula, designated as No. 25, approved for special denaturation of alcohol to be used exclusively in manufacture of tincture of iodine; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants. (T. D. 2413; Dec. 11, 1916.)

Formula, designated as No. 26, for special denaturation of alcohol to be used exclusively in the manufacture of ethylaniline and diethylaniline stated; officers instructed to exercise great caution in recommending granting of permits for use of such denaturant; application must be accompanied by blue print or drawing of premises, same to be duly sworn to, and detailed description of process. (T. D. 2430; Jan. 2, 1917.)

Alcohol denatured according to stated formula may be used in the manufacture of soap liniment (U. S. P.), chloroform liniment (U. S. P.), liniment of soft soap, and green soap when manufactured in accordance with standards of United States Pharmacopœia with exception that products will contain camphor and rosemary; denaturant may be used only in central denaturing and distilling plant of industrial character as established under subsection 2, of paragraph N, of section 4, of the act of October 3, 1913, and supplement No. 2 to Regulations No. 30; samples of liniment of soft soap and green soap required to be submitted together with formula, before bond is approved; permission for use of special denaturants must be obtained. (T. D. 2465; Mar. 24, 1917.)

Use of formula 6-b, containing pyridine as a denaturant, extended temporarily for those purposes for which special formula No. 17 has heretofore been authorized, and restriction in respect to operating in connection with distillery or central denaturing bonded warehouse temporarily removed. (T. D. 2484; Apr. 21, 1917.)

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

Formula No. 31, for special denaturation of alcohol to be used in the manufacture of tooth paste, stated; samples of finished product, together with formula of ingredients, labels, advertising matter, etc., required to be furnished; this data should be accompanied by full description of process of manufacture and a blue print or pencil drawing showing location of room or rooms in which denatured alcohol is to be used. (T. D. 2819; Apr. 10, 1919.)

Formula 3A, for special denaturation of alcohol for use in the manufacture of transparent soap, modified. (T. D. 2820; Apr. 10, 1919.)

Formula No. 32, for denaturation of alcohol for use in manufacture of "Ethylene," stated; formula may only be used in process which is closed and continuous and which will completely destroy the alcohol as such. (T. D. 2863; June 14, 1919.)

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Denatured alcohol—Continued.

—— **Formulas**—Continued.

Formula No. 4, for complete denaturation of alcohol, stated; benzol submitted required to conform to specifications set out. (T. D. 2853; June 3, 1919.)

Formula 31A, for the denaturation of alcohol for use in the manufacture of tooth paste, stated. (T. D. 2855; June 7, 1919.)

Formula No. 30, for special denaturation of alcohol to be used exclusively as reagent for analytical and testing purposes by chemical and physical laboratories, stated; alcohol so denatured shall not be redistilled or purified to use, and is not to be recovered for reuse; use of this formula will not be permitted until intended use and method of its use is satisfactorily set forth in application filed; laboratories required to qualify, keep records, and comply with regulations, as in case of manufacturers using specially denatured alcohol. (T. D. 2793; Feb. 20, 1919.)

Formula No. 29, for denaturation of alcohol for use in manufacture of glacial acetic acid, stated; sketches of routing of alcohol and the closed and continuous process, as well as detailed description, must accompany application for use of such formula. (T. D. 2758; Sept. 20, 1918.)

—— **Labels.**

Labels on denatured alcohol packages required to have printed thereon in large letters the word "Poison" and the following statement: "Completely denatured alcohol is a violent poison. It can not be applied externally to human or animal tissue without seriously injurious results. It can not be taken internally without inducing blindness and general physical decay, ultimately resulting in death." (T. D. 2914; Aug. 30, 1919.)

—— **Losses.**

Tanks and tank cars used in shipment of alcohol to denaturing bonded warehouses required to be secured with certain seal locks, and vents or removable portions of car not so locked must be wired and sealed with "Tyden" seals, consecutively numbered, etc.; certificates and monthly reports of gaugers; necessary that locks and seals be intact in order to secure allowance for losses in transit. (T. D. 2746; July 10, 1918.)

—— **Motor fuel.**

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. B. 2528; Oct. 3, 1917.)

Formula No. 28, for special denaturation of alcohol for use in manufacture of motor fuel, stated; formula authorized to be used exclusively in manufacture of motor fuel by a closed and continuous process, in connection with a central denaturating bonded warehouse; analytical requirements; process after denaturation; samples of finished product to be furnished; application for use of denaturant to be accompanied by blue prints and full description of process and premises. (T. D. 2769; Nov. 4, 1918.)

—— **Plates attached to drums.**

Use of lead plates attached to drums containing denatured alcohol of not less than one-fourth of an inch in thickness, instead of three-eighths of an inch, as provided in T. D. 1310, authorized. (T. D. 2751; Aug. 14, 1918.)

—— **Porto Rico imports.**

Where alcohol of not less than 180° proof is brought from Porto Rico for denaturation, same may be transferred to any central denaturing bonded warehouse free of tax, upon filing stated bond, which is to be given in duplicate by warehouse proprietor, with sureties satisfactory to collector and in penal sum of not less than triple the amount of tax, and in no case less than $5,000, one copy of bond to be retained by collector, and one copy with his approval indorsed thereon to be forwarded to Commissioner of Internal Revenue; instructions as to application for transfer of alcohol; alcohol transferred will, upon arrival, be carefully inspected and reported, on monthly statement (Form 575); such alcohol will be denatured and accounted for in same manner as other alcohol received for like purposes. (T. D. 2575; Nov. 5, 1917.) This decision applies to alcohol produced in Porto Rico on or after October 4, 1917, only; decision further modified so as to permit giving of bond in penal sum of not less than actual amount of tax at rate of $2.20 per proof gallon, and in no case less than $5,000, except that in case of alcohol withdrawn by scientific or educational institution under section 3297, Revised Statutes, bond shall be for penal sum of not less than double amount of tax at rate of $2.20 per gallon. (T D. 2641; Jan. 28, 1918.)

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Denatured alcohol—Continued.

—— Soap liniment, etc.

Alcohol denatured according to stated formula may be used in the manufacture of soap liniment (U. S. P.), chloroform liniment (U. S. P.), liniment of soft soap, and green soap when manufactured in accordance with standards of United States Pharmacopœia with exception that products will contain camphor and rosemary; denaturant may be used only in central denaturing and distilling plant of industrial character as established under subsection 2 of paragraph N, of section 4, of the act of October 3, 1913, and supplement No. 2 to Regulations No. 30; samples of liniment of soft soap and green soap required to be submitted together with formula, before bond is approved; permission for use of special denaturants must be obtained. (T. D. 2465; Mar. 24, 1917.)

—— Spirits recovered from empty packages.

Spirits recovered from empty spirit packages by steaming, hot water, or other processes, at central distilling and denaturing plants established under act of October 3, 1913, to be denatured on the distillery premises, as provided in regulations No. 30, and supplement No. 2 made in pursuance thereof. (T. D. 2565; Oct. 27, 1917.)

—— Sulphuric acid.

Storekeepers at denaturing bonded warehouses directed to accept, for denaturing purposes, sulphuric acid of a specific gravity of 1.83. (T. D. 2658; Feb. 28, 1918.)

—— Tincture of iodine.

Formula, designated as No. 25, approved for special denaturation of alcohol to be used exclusively in manufacture of tincture of iodine; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants. (T. D. 2413; Dec. 11, 1916.)

Use of alcohol denatured in conformity with formula 25 in the manufacture of a 3½ per cent tincture of iodine without the addition of potassium iodide assented to. (T. D. 2527; Sept. 28, 1917.)

—— Withdrawal of alcohol.

Regulations of October 26, 1917, relative to sale and use of distilled spirits for other than beverage purposes under the acts of August 10, 1917, and October 3, 1917, do not apply to alcohol withdrawn for denaturation. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Instructions with reference to withdrawal of alcohol for use in central denaturing warehouses from different distilleries under one bond; requisites of bond; permit; application for regauge and withdrawal; order; storekeeper's duties; certificate of gauger. (T. D. 2630; Jan. 17, 1918.)

Distilled spirits.

Distillers producing alcohol exclusively for other than beverage purposes may operate on Sundays, and collectors may require storekeeper-gaugers and storekeeper-gaugers in capacity of gaugers to remain on duty; notation to be made on vouchers for monthly compensation to effect that distilleries were in operation under provisions of section 302 of act of October 3, 1917; distillers manufacturing ethyl alcohol for nonbeverage purposes exclusively may be granted permission to fill fermenting tubs in sweetmash distillery not oftener than every 48 hours; upon receipt of notice on Form 27A from such a distiller, collector to make survey of distillery. (T. D. 2636; Jan. 24, 1918.)

Exports—Drawback.

Where alcohol is exported in its natural condition, drawback thereon allowed only when alcohol is exported in the distillers' original casks or packages, and allowance is limited by section 3329, Revised Statutes, to 90 cents per proof gallon; where the alcohol is used in manufacture of flavoring extracts, medicinal or toilet preparations for export, the drawback should include both tax of $1.10 per proof gallon, and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

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Exports—Continued.

—— **Tanks or tank cars.**

When alcohol or other distilled spirits are to be withdrawn from distillery bonded warehouse free of tax for export in tanks or tank cars, metal storage tanks must be provided in such warehouse to be constructed and arranged with proper pipe connections and suitable weighing tanks, as prescribed in Regulations No. 30; when withdrawals are to be made direct from receiving cisterns into tanks or tank cars, storage tanks need not be provided in such warehouse, in which case the weighing tanks will be located in the distillery cistern room. (T. D. 2368; Sept. 11, 1916.)

Applications for withdrawal of alcohol or other distilled spirits for exportation in tanks or tank cars, and bonds covering tax on spirits to be withdrawn, will be same as for spirits contained in original packages, except that in distributing the spirits the serial number of the storage tank will be given, or if withdrawal is to be made direct from receiving cistern, application and bond will so state. (T. D. 2368; Sept. 11, 1916.)

Each tank or tank car will be regarded as an original package, and an export stamp, to be procured by the shipper, will be affixed to each such tank or tank car. (T. D. 2368; Sept. 11, 1916.)

Bonded carriers to which shipments of spirits in tanks or tank cars are delivered for transportation for export required to procure certain seals for securing cars for use until such time as Commissioner of Internal Revenue may adopt a suitable seal; ordering, numbering, and affixing of seals; duty of collector of customs where seals are found to be intact at frontier point; duties of customs inspector where seals are found to be broken or tampered with. (T. D. 2368; Sept. 11, 1916.)

Exportation of alcohol or other distilled spirits in tanks or tank cars restricted to shipments by railroad destined for points in contiguous foreign territory. (T. D. 2368; Sept. 11, 1916.)

Alcohol or other distilled spirits of not less than 180° proof may be drawn from receiving cisterns at any distillery or from storage tanks in distillery warehouse into tanks or tank cars for export from United States. (T. D. 2368; Sept. 11, 1916.)

Monthly report of spirits withdrawn from receiving cisterns required to be made on supplemental Form 94A; contents. (T. D. 2368; Sept. 11, 1916.)

Extracts.

See "Extracts."

Any domestic wines may be used in manufacture of liqueurs, cordials, and similar compounds, provided no distilled spirits are added; prohibition against mixing of distilled spirits with wines does not apply to limited use of alcohol in making of fluid extracts from herbs which may be used in manufacture of cordials; quantity or percentage of alcohol permitted in preparation of such extracts for manufacture of cordials must in all cases conform to United States Pharmacopœia. (T. D. 2387; Oct. 30, 1916.)

Alcohol tax paid at rate of $2.20 per gallon, whether produced from materials fermented before or after September 9, 1917, may be used in manufacture of bona fide flavoring extracts, which themselves are not fit for beverage purposes; such flavoring extracts may be subsequently used for flavoring beverages whether alcoholic or not. (T. D. 2567; Oct. 30, 1917.)

Alcohol which can not legally be used for beverage purposes may be used in manufacture of flavoring extracts. (T. D. 2598; Nov. 24, 1917.)

Manufacturers of alcoholic preparations which it is possible to use internally, such as flavoring extracts, must, wherever standard process of manufacture is prescribed by Secretary of Agriculture, use such process. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture; if no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Where any preparation containing more than one-half of 1 per cent of alcohol by volume, whether sold as medicine or flavoring extract or in any other manner, does not conform to required standard, liability will be asserted to tax at beverage rate on alcohol used; similar action will be taken in case of preparation made in conformity with such standard if sold by a manufacturer for beverage purposes. (T. D. 2760; Oct. 9, 1918.)

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Extracts—Continued.

Use of alcohol by manufacturing chemists or flavoring extract manufacturers recovered from dregs or marc of percolation or extraction in any other manner than that prescribed by section 3246, Revised Statutes, as amended by act March 3, 1915, without payment of special tax, will not be permitted. (T. D. 2760; Oct. 9, 1918.)

Fermented malt liquors.

Alcoholic content of fermented malt liquor produced in United States (except ale and porter) must in no case exceed 2¼ per cent of alcohol by weight. (T. D. 2618; Dec. 21, 1917.)

All so-called malt tonics and malt extracts containing in excess of 2 per cent of alcohol by volume and not containing at least 12 per cent of solids due to malt are properly classed as fermented malt liquors, and all existing provisions of internal-revenue law and regulations relating to fermented malt liquors, including sections of law imposing special tax on account of sale thereof, are applicable to such preparations. (T. D. 2717; May 28, 1918.)

Executive order, dated September 16, 1918, and regulations promulgated by the President under date of September 30, 1918, covering production of malt liquors and the alcholic content thereof, published for information of revenue officers and others concerned. (T. D. 2768; Nov. 2, 1918.)

Floor tax.

Alcohol held on October 3, 1917, by manufacturers of proprietary medicines for use in manufacture of medicines is subject to floor tax, unless on day act of October 3, 1917, took effect it was in process of manufacture and had been rendered unfit for beverage purposes. (T. D. 2547; Oct. 22, 1917.)

Fortification of wine.

Dry wines, when sweetened, may be fortified only by the producer and on the premises where actually made; tax-paid grain or other ethyl alcohol may be used in fortifying any sweet wines. (T. D. 2387; Oct. 30, 1916.)

Nonalcoholic beverages.

See "Beverages."

Nonbeverage alcohol.

All persons purchasing nonbeverage alcohol for use in manufacturing processes must obtain permit, give required bond, and otherwise comply with regulations pertaining to sale and use of such alcohol, regardless of quantities purchased. (T. D. 2576; Nov. 10, 1917.)

So-called nonbeverage alcohol taxable at rate of $2.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of prescription compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Special tax must be paid as retail or wholesale liquor dealer by homeopathic pharmacist covering sale of nonbeverage alcohol and dilutions. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Homeopathic pharmacists who are unwilling to take out permits and give bonds required may purchase and use nonbeverage alcohol produced from materials fermented prior to 11 o'clock p. m., September 8, 1917, and taxable at the rate of $3.20 per proof gallon. (T. D. 2699; Apr. 16, 1918.)

Every physician or other person desiring to purchase or use homeopathic attenuations, potencies, or dilutions, or nonbeverage alcohol for making same, must qualify by filing bond and obtaining permit, except that homeopathic physician or any other person may obtain from pharmacist not exceeding 2 drachms of any attenuation, etc., at one time without filing bond and obtaining permit; physician may dispense such attenuations, etc., in quantities ordinarily prescribed to patients, and such patients need not file bonds or hold permits. (T. D. 2699; Apr. 16, 1918.)

Manufacturers of Jamaica ginger will not be issued permits covering use of nonbeverage alcohol in manufacture thereof unless same is made in accordance with process prescribed in United States Pharmacopœia. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

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Nonbeverage alcohol—Continued.

Where processes other than those prescribed in the United States Pharmacopœia and by the Secretary of Agriculture are followed and right to use nonbeverage alcohol is claimed, manufacturer will furnish in duplicate data called for in T. D. 2576, as in case of alcoholic medicinal compounds for internal use which do not conform to the United States Pharmacopœia or National Formulary; samples of product will be required when doubt exists as to nonbeverage character of same, such samples to be forwarded by express, charges prepaid by manufacturer, to Division of Chemistry, office of Commissioner of Internal Revenue. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Such United States Pharmacopœia or National Formulary preparations as aromatic elixirs, tincture of aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

Where blanket permits for sale and use of nonbeverage alcohol have been issued, collectors will have complete reexamination made of permits and where found to cover alcoholic compounds or preparations which it is possible to use internally, such as flavoring extracts, they will have thorough investigation made and obtain data required in T. D. 2576 and T. D. 2699; defective permits must be corrected and, where essential, copy of permit in collector's office, as well as copy in possession of holder, should be corrected to show exact use to which alcohol is to be put. (T. D. 2699; Apr. 16, 1918.)

Homeopathic pharmacists in order to obtain and use nonbeverage alcohol in manufacture of potencies, attenuations, or dilutions, or sell the same, required to make application and obtain permit and give bond in same manner as any other user or dealer in nonbeverage alcohol (see T. D. 2569 and T. D. 2576); such pharmacists in order to obtain and use nonbeverage alcohol must under any circumstances qualify by filing bond and obtaining permit regardless of manufacture and sale of the dilutions. (T. D. 2699; Apr. 16, 1918.)

Persons who use nonbeverage alcohol must first comply with preliminary requirements of laws pertaining to same and regulations issued in pursuance thereof; use of nonbeverage alcohol for manufacture of medicinal preparations, flavoring extracts, etc., is permitted only under same conditions and subject to same restrictions as govern manufacture and sale of same preparations without payment of special tax. (T. D. 2760; Oct. 9, 1918.)

Apothecaries will not be charged with liability to special tax on account of sale in quantities not exceeding 1 pint of alcohol for bathing or antiseptic purposes, providing it is compounded prior to sale, but not in bulk or in advance of orders, in such manner as to make it unfit for use as beverage; approved formulas for purpose of rendering alcohol unfit for beverage stated; containers of alcohol treated in such manner must bear "poison" labels. (T. D. 2760; Oct. 9, 1918.)

When it is desired to use nonbeverage alcohol in making flavoring extract for which no specific standard or process has been prescribed by Secretary of Agriculture, manufacturer must furnish, in duplicate, data required by T. D. 2576 with respect to alcoholic medicinal compounds not conforming to U. S. P. or N. F.; samples of product will be required when doubt exists as to nonbeverage character of same, which samples will be forwarded by express, charges prepaid, to Division of Chemistry, Office of the Commissioner of Internal Revenue. (T. D. 2760; Oct. 9, 1918.)

Shipments into "dry" territory.

Instruction to revenue officers as to duties in connection with shipments in violation of section 240 of the Criminal Code; description; baggage; interstate shipments; seizures; reports. (T. D. 2437; Jan. 19, 1917.)

Wines.

Wines containing more than 24 per cent of absolute alcohol, being classed as distilled spirits by paragraph (a), section 402, act September 8, 1916, production of same for beverage purposes is prohibited by act August 10, 1917, section 15. (T. D. 2748; July 17, 1918.)

Withdrawal—Central denaturing warehouses.

Instructions with reference to withdrawal of alcohol for use in central denaturing warehouses from different distilleries under one bond; requisites of bond; permit; application for regauge and withdrawal; order; storekeeper's duties; certificate of gauger. (T. D. 2630; Jan. 17, 1918.)

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Withdrawal—Continued.

—— **Hospital purposes.**

Alcohol may be withdrawn free of tax under act of May 3, 1878, as amended by act of July 8, 1916, for use in surgical operations and treatment of patients, and alcohol so withdrawn by hospitals and sanitariums may be used, even though they maintain no educational facilities; provided, however, that alcohol so withdrawn shall not be used as a beverage nor in any way for the manufacture or compounding of a beverage for use in any such institution or elsewhere; privilege of withdrawal will not be extended to any institution conducted directly or indirectly for profit or from operations of which any profit, other than fair and reasonable compensation for services performed, is derived by any stockholder, officer, or other person; withdrawals must be according to method and subject to restrictions imposed by T. D. 2496. (T. D. 2745; July 5, 1918.)

—— **Scientific purposes—Application.**

In order to withdraw alcohol for scientific purposes, applicant must present to collector of internal revenue application to Secretary of Treasury for permit to withdraw the same; form and contents of application; evidence as to nature of institution; quantity of alcohol applied for. (T. D. 2496; May 31, 1917.)

—— —— **Bond.**

Applicant for permit to withdraw alcohol must execute bond in duplicate, signed by himself, with two or more sureties; form; who required to sign bond; attestation and seal. (T. D. 2496; May 31, 1917.)

—— —— **"Chemical laboratory" defined.**

The term "chemical laboratory," as used in section 3297, Revised Statutes, includes any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol withdrawn from bond is used purely for scientific purposes. (T. D. 1971; Apr. 20, 1914. T. D. 2496; May 31, 1917.)

—— —— **Credit on bond account.**

Storekeeper at bonded warehouse required to transmit duplicate permit to collector who will take credit for all spirits withdrawn, on the proper line of his bonded account (Form 94a) for month during which such withdrawal is made, and he will make proper entry on inside page of such account as to quantity covered by each permit, and will forward each of the duplicate permits with his bonded account as vouchers for such entry; alcohol withdrawn is subject to regauge, but request for regauge on modified Form 179 must be filed. (T. D. 2496; May 31, 1917.)

—— —— **Distilled spirits regulations.**

Regulations of October 26, 1917, relative to sale and use of distilled spirits for other than beverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to alcohol withdrawn for scientific purposes under sections 3297, Revised Statutes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— —— **Institutions privileged.**

Privilege of withdrawing alcohol in bond for scientific purposes applies to all institutions of learning created and constituted as such under any State or Territorial law, and to hospitals similarly created, and having connected therewith a training school for nurses, or where clinical lectures are delivered. (T. D. 2496; May 31, 1917.)

—— —— **Permit.**

Upon receipt by the Commissioner of Internal Revenue of application to withdraw alcohol an original and duplicate permit will be issued, original to be forwarded to collector of internal revenue, and duplicate to be transmitted to applicant, who must sign receipt, which should then be sent to the distiller, who will hand it to the storekeeper of the warehouse; collector will notify storekeeper of granting of permit; duty of storekeeper. (T. D. 2496; May 31, 1917.)

—— —— **Proof as to use.**

For cancellation of bond, or for the purpose of obtaining credit on such bond, certificate under oath, substantially in stated form, will be required of officer of institution under whose direction alcohol has been used, such certificate to be filed with collector named in the bond and by him forwarded to the Commissioner

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Withdrawal—Continued.

—— **Scientific purposes**—Continued.

—— —— **Proof as to use**—Continued.

of Internal Revenue, with his approval indorsed thereon; where principal to bond is unable, from good cause, to furnish required proof within time specified in his bond, an extension not exceeding 12 months may be obtained upon application to Commissioner of Internal Revenue, accompanied by consent of sureties. (T. D. 2496; May 31, 1917.)

—— —— **Purposes of use.**

Alcohol may not be used outside of the chemical laboratory, and its use in the laboratory must be such as either to secure its actual destruction or destroy its identity, and must not be sold to any person whatever; in order that alcohol may be used for bathing patients or in surgical operations, it must be first mixed with an antiseptic and in such proportions as to change its identity; formula for antiseptic purposes in general. (T. D. 2496; May 31, 1917.)

—— **Tanks or tank cars.**

Regulations concerning removal of tax-paid alcohol in tanks or tank cars from registered distilleries to premises of rectifiers of spirits; transfer to storage tanks; reports; labels; bonds. (T. D. 2790; Feb. 15, 1919.)

ALCOHOLIC COMPOUNDS.

Beverages.

Only alcohol tax-paid at rate of $3.20 per gallon may be used in compounding Cauffman's ginger brandy and the alcoholic compounds listed in T. D. 2222 or passed upon subsequent to its publication (see T. D. 2544), for which special tax is required and which fail to measure up to standard set forth in T. D. 1843 as to so-called medicinal compound; no distilled spirits fermented after 11 o'clock p. m. of September 8, 1917, may be used in their manufacture; a tax of 15 per cent per proof gallon will be required on all compounds in possession of rectifier on October 4, 1917, or thereafter produced, and additional floor tax on product must be paid after inventory and return in same manner as floor tax on distilled spirits. (T. D. 2536; Oct. 13, 1917.)

Alcoholic medicinal preparations held to be insufficiently medicated to render them unfit for use as a beverage listed. (T. D. 2544; Oct. 19, 1917.)

Special tax required for sale of preparations insufficiently medicated to render them unfit for use as a beverage, even though such sales are for medicinal use. (T. D. 2544; Oct. 19, 1917.)

Where alcoholic compound is listed in T. D. 2222, or subsequent decisions of similar purport (see T. D. 2544), as one requiring special tax for its manufacture and sale, permit to use or sell or to use and sell distilled spirits for other than beverage purposes shall not be issued. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Nonbeverage alcohol used.

Where processes other than those prescribed in the United States Pharmacopœia and by the Secretary of Agriculture are followed and right to use nonbeverage alcohol is claimed, manufacturer will furnish in duplicate data called for in T. D. 2576, as in case of alcoholic medicinal compounds for internal use which do not conform to the United States Pharmacopœia or National Formulary; samples of product will be required when doubt exists as to nonbeverage character of same, such samples to be forwarded by express, charges prepaid by manufacturer, to Division of Chemistry, Office of Commissioner of Internal Revenue. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Such United States Pharmacopœia or National Formulary preparations as aromatic elixirs, tincture of aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

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Nonbeverage alcohol used—Continued.

Where blanket permits for sale and use of nonbeverage alcohol have been issued, collectors will have complete reexamination made of permits, and where found to cover alcoholic compounds or preparations which it is possible to use internally, such as flavoring extracts, they will have thorough investigation made and obtain data required in T. D. 2576 and T. D. 2699; defective permits must be corrected, and where essential, copy of permit in collector's office as well as copy in possession of holder, should be corrected to show exact use to which alcohol is to be put. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Manufacturers of alcoholic preparations which it is possible to use internally, such as flavoring extracts, must, wherever standard process of manufacture is prescribed by Secretary of Agriculture, use such process. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Manufacturers of Jamaica ginger will not be issued permits covering use of nonbeverage alcohol in manufacture thereof unless same is made in accordance with process prescribed in United States Pharmacopœia. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Tax-paid still wines, domestic and foreign, and tax-paid distilled spirits may be used by rectifiers in the manufacture of vermuths, liqueurs, cordials, and similar compounds of fluid extracts, under stated conditions; bond given by rectifier; marking of containers; notice and records; gauging of products after rectification; marking, branding, and stamping compounds. (T. D. 2403; Nov. 29, 1916.)

For manufacturer of and dealers in alcoholic medicinal compounds to be exempt from special tax under section 3246, Revised Statutes, preparation must contain no more alcohol than is necessary for legitimate purposes of extraction, solution or preservation, and as a minimum dosage each liquid ounce of completed preparation must carry in it approximately an average dose for adult of some drug or drugs of recognized therapeutic value, either singly or in compatible combination. (T. D. 2760; Oct. 9, 1918. T. D. 2767; Nov. 2, 1918.)

Manufacturer can not escape liability to special tax by showing that given quantity of drugs was used; burden is on him to see that finished product does, in fact, conform to prescribed standard, and statements that ingredients of low quality were inadvertently used or that full strength was through some defect in process of manufacture not extracted, will not be accepted as sufficient to relieve manufacturer from liability in case preparation is insufficiently medicated. (T. D. 2760; Oct. 9, 1918.)

Alcoholic solutions of Jamaica ginger must always be made in accordance with the process and comply with standards of the U. S. P. (T. D. 2760; Oct. 9, 1918.)

Persons who manufacture or deal in alcoholic medicinal preparations, flavoring extracts, etc., even though made in accordance with standards prescribed, are only relieved from special tax liability so long as they make sales for legitimate purposes only; if preparation containing more than one-half of 1 per cent of alcohol by volume is sold for beverage purposes or under circumstances warranting reasonable belief that it is to be used as a beverage, liability to tax will be asserted regardless of what other ingredients preparation may contain. (T. D. 2760; Oct. 9, 1918.)

Manufacturers of preparations in which sole medication is salt of iron will not, with certain stated exceptions, be considered entitled to use alcohol without paying special tax; use of alcohol in conformity with prescribed standard is permitted in compounding preparations containing peptonate of iron and in manufacture of preparations corresponding in strength of iron to vinum ferri N. F.; inclusion of fermentable but nonmedicinal material in preparation not otherwise requiring alcohol will not be regarded as sufficient reason for using it. (T. D. 2760; Oct. 9, 1918.)

Preparations such as aromatic elixirs, tincture of aromatica, and similar preparations used by physicians and pharmacists principally as vehicles, even though potable, may be sold in good faith for legitimate uses without payment of special tax, provided they are made in conformity with U. S. P. or N. F. (T. D. 2760; Oct. 9, 1918.)

ALE.

See "Fermented Liquors."

ALIENS.

Excess profits tax.

See "Excess Profits Tax."

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Excise tax on boats.

Boats used in United States or navigating United States waters are subject to tax imposed by section 603 of act October 3, 1917, although owned by nonresident aliens. (T. D. 2753; Aug. 23, 1918.)

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

ALIEN PROPERTY CUSTODIAN.

Stamp taxes on conveyances, etc., by and to.

See "Stamp Taxes."

ALIMONY.

Income taxes.

Alimony or allowance based on separation agreement is not income to recipient thereof, nor is it an allowable deduction for the person paying same. (T. D. 2690; art. 4.)

ALL THE PROCEEDS.

Definition.

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

AMENDMENT.

Returns—Income taxes.

Where further tax is found to be due as result of audit of return or agent's report, amended return or waiver will not be required, except where discovery of tax is made subsequent to expiration of three-year period of limitation. (T. D. 2690; art. 38.)

Where corporation discovers expenses or liabilities which were due and payable during preceding year, it may make amended return for year to which such expense or liability applies, include such expense in deductions of that year, and file claim for refund for any taxes overpaid by reason of failure to deduct such expense or liability in original return of that year. (T. D. 2690; art. 128.)

Though Government may recover unpaid taxes by suit, it is desirable that collection be made as result of formal assessment, and in order that this may be done, corporations owing additional taxes for any period antedating the three-year limitation should file amended returns, together with statement formally waiving such limitation and consenting to assessment; in executing such amended returns or waivers, corporations forfeit none of their rights under the law, and no penalty is incurred which might not otherwise be enforced by suit. (T. D. 2690; art. 233.)

If corporation against which additional tax liability is discovered formally accepts findings of examining officer and agrees to voluntarily pay additional tax and does so pay additional tax, amended returns or waivers will not be required. (T. D. 2690; art. 234.)

AMUSEMENTS.

See "Admissions."

ANCILLARY ADMINISTRATION.

Estate tax.

Banking institutions holding money of nonresident decedents, brokers holding as collateral securities belonging to such decedents, debtors of such decedents, safe-deposit companies, warehouses and similar custodians in this country of property of nonresident decedents, and transfer agents of stocks or bonds may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until either estate tax due has been paid or ancillary letters have been taken out or otherwise provision has been made to satisfy tax lien. (T. D. 2454; Feb. 28, 1917.)

Income taxes—Returns.

Ancillary administrator is merely an agent of the domiciliary administrator and should transmit to him all information as to income of estate received by ancillary administrator, so that original administrator may make return covering entire income of estate. (T. D. 2690; art. 26.)

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ANIMALS.

See "Live Stock."

Medicinal preparations—Excise taxes.

Spray to be applied to cows, horses, and other animals to keep off flies, vermin, etc., is not a medicinal preparation within the meaning of section 600 (h) of the act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Medicinal preparations for beasts, when same would be taxable if used by man, are taxable under act of October 3, 1917; stock foods, not recommended or held out as remedies or specifics for diseases, but as feed only, are not taxable. (T. D. 2591; Nov. 24, 1917.)

ANNUITIES.

Income tax—Information at source.

Annuities representing return of corpus or capital need not be reported. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying annuities of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such annuities and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

—— Net income.

There should be reported as payments on policies by insurance companies, other than mutuals, but including mutual life and mutual marine, all death, disability, or other policy claims (other than dividends) paid within year, including fire, accident and liability losses, matured endowments, and annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. (T. D. 2690; art. 240.)

Insurance tax.

An annuity contract is not taxable as a policy of life insurance, since it does not insure a life. (T. D. 2785; Jan. 23, 1919.)

ANTISEPTICS.

Alcohol for use in.

See "Alcohol."

APOTHECARIES.

See "Pharmacists."

APPENDAGES.

Definition.

The word "appendages," as used in paragraph (d) of article 2 of Regulations No. 39, includes those adjuncts or accessories which may be attached to and become in effect parts of firearms. (T. D. 2714; May 14, 1918.)

ARMY AND NAVY.

See "War."

Estate tax—Rates.

Increase in rates of taxation upon estates of decedents dying on or after October 4, 1917, does not apply to estates of decedents dying while serving in military or naval forces, etc.; net estates of such decedents are taxable at rates imposed in act of March 3, 1917. (T. D. 2535; Oct. 9, 1917.)

Excess profits tax—Extending time for payment.

Where, by reason of absence from their homes or places of business, in the military service of the country, it is impossible for individuals to receive notice and demand, on Form 17, and pay taxes assessed so that taxes can be received by collector within 10-day period following service of notice, collector is requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that payments should be received in ordinary course of mails, and where it appears that full amount of tax was placed in mails within 10-day period, or in case notice is not delivered in due time by reason of delay in mail, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

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Excess profits tax—Continued.

—— Returns—Extending time for filing.

Time for filing war excess-profits tax returns by nonresident alien individuals and corporations and American citizens residing or traveling abroad, including persons in military or naval establishments stationed or on duty beyond limits of the States and Territories of Hawaii and Alaska, extended for such period as may be necessary to and including 90 days after proclamation of President of United States announcing close of war with Germany; any such person filing return after April 1, 1918, but on or before October 1, 1918, embodying therein or attaching thereto written statement showing that he comes within classes designated by T. D. 2581, need not file supporting affidavit stating cause of delay. (T. D. 2672; Mar. 16, 1918.)

Excise taxes—Automobiles for use of Army.

Automobiles sold to United States for use of the Army are subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

—— Boats.

All boats of specified classes (other than boats used exclusively for national defense or built according to plans and specifications approved by the Navy Department) are taxed under section 603 of act October 3, 1917, unless they are used exclusively for trade. (T. D. 2753; Aug. 23, 1918.)

—— Insignia.

Military and naval insignia required to be worn is not taxable as jewelry under section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XVI.)

—— Machine guns.

Motor-driven machine guns are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

Income tax—Extending time for payment.

Where, by reason of absence from their homes or places of business, in the military service of the country, it is impossible for individuals to receive notice and demand, on Form 17, and pay taxes assessed so that taxes can be received by collector within 10-day period following service of notice, collector is requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that payments should be received in ordinary course of mails, and where it appears that full amount of tax was placed in mails within 10-day period, or in case notice is not delivered in due time by reason of delay in mail, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

—— Information at source.

Returns of information will not be required from disbursing officers of payments made to sailors or soldiers of the United States. (T. D. 2670; Mar. 11, 1918.)

—— Net income.

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Pay and allowance of Army officers are based on obligation of officer to provide equipment and mounts as personal expense; cost of mounts and equipment is not therefore a deductible expense. (T. D. 2690; art. 8.)

—— Pensions.

Pensions paid by United States, private institutions, or individuals, are to be accounted for in all cases where income of pensioner is liable for income tax. (T. D. 2690; art. 4.)

—— Retired pay.

Retired pay of army and naval officers is subject to income tax. (T. D. 2690; art. 4.)

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Income tax—Continued.

—— Returns.

Persons in naval or military service of United States may verify their returns before any official of those services authorized to administer oaths for purposes of those services; returns may be filed with collector of district in which they have a legal residence, or with collector at Baltimore, Md. (T. D. 2690; art. 26.)

Time for filing income tax returns by persons in military or naval establishments stationed or on duty beyond limits of the States and Territories of Hawaii and Alaska extended for such period as may be necessary to and including 90 days after proclamation of President announcing close of war with Germany, as provided by T. D. 2581; any such person filing return after April 1, 1918, but on or before October 1, 1918, embodying therein or attaching thereto written statement showing that he comes within classes designated by T. D. 2581, need not file supporting affidavit required by that decision. (T. D. 2672; Mar. 16, 1918.)

Any officer in the naval or military service of the United States, within or without the United States, who is authorized to administer oaths, under provisions of section 4 of the act of July 27, 1892, or under provisions of act of March 4, 1917, empowered and authorized to take acknowledgment of persons in the naval and military service of the United States making returns of income; certifying officer required to place under his name official designation under which he acts. (T. D. 2534; Sept. 29, 1917.)

Passenger transportation.

Transportation charges paid by soldiers traveling on furloughs at their own expense are not exempt from tax under section 502 of act of October 3, 1917. (T. D. 2676; Mar. 18, 1918.)

Post exchanges—Floor taxes on tobacco, etc.

Stocks of cigars, tobacco, and cigarettes held for sale at close of business, October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

—— Occupational tax.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys operated by them. (T. D. 2439; Jan. 27, 1917.)

Soldiers' kits—Tobacco, etc.

Instructions with reference to the shipment from tobacco and cigarette factories of so-called soldiers' kits or cartons containing packages of tobacco and cigarettes to New York, there to be repacked under supervision of customs officer for exportation to the United States soldiers in Europe. (T. D. 2517; Aug. 17, 1917.)

War risk insurance.

Tax imposed by section 504 of the act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War Risk Insurance Bureau; the act clearly contemplates that the tax shall be paid by the insurer and not by the insured; not only is it impossible in absence of express provision to contrary to infer that the United States intended to tax itself, but section 505 of the act obviously limits the application of the tax to persons, corporations, partnerships, and associations, in none of which classes is the United States included. (T. D. 2563; Oct. 23, 1917.)

AROMATIC ELIXIRS.

Nonbeverage alcohol.

See "Alcohol."

ARTS AND SCIENCES.

Alcohol for scientific purposes.

See "Alcohol."

Distilled spirits.

See "Distilled Spirits."

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ARTIFICIAL MINERAL WATERS.

Excise taxes.

See "Excise Taxes."

ARTIFICIAL WINES.

See "Wines."

ASSESSMENT.

Dues and fees.

See "Dues."

Particular taxes.

See specific heads.

ASSIGNMENTS.

Income taxes—Return by assignees.

Under section 13, paragraph (c), act September 8, 1916, receivers, trustees in bankruptcy, or assignees in charge of and operating property and business of corporations, must make returns of annual net income and pay tax regardless of what disposition, subject to orders of court, may be made of such income; such receiver, etc., stands in place of corporate officers and must perform all duties and assume all liabilities which would devolve upon such officers were they in control; income which he receives is income of corporation and is subject to tax imposed in so far as it exceeds deductions or allowance authorized by law, and such receiver, etc., must make true return of annual net income covering each year or part of each year, during which he is in custody and control of business or properties, and will be liable to all penalties for failure to meet any of its requirements. (T. D. 2690; art. 209.)

Insurance policies—Stamp tax.

No stamp tax is imposed upon power of attorney in transfer by assignment, absolute or as collateral security, of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in assignee. (T. D. 2599; Dec. 3, 1917.)

ASSOCIATIONS.

Employees' protective associations.

Associations composed of employed or others who band themselves together for mutual protection in issuing life and casualty insurance, are subject to tax under paragraph (c) of section 504 of act of October 3, 1917, unless exempted under paragraph (d) of such section. (T. D. 2588; Nov. 21, 1917.)

Excess profits tax.

See "Excess Profits Tax."

Income taxes.

See "Income Taxes (Corporations)."

Massachusetts trusts—Capital stock tax.

So-called Massachusetts trusts are subject to tax imposed by act September 8, 1916. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

—— Income taxes.

Organization under constitution of which individuals who are beneficially interested in various proportions in same property and hold assignable certificates representing their different interests therein, but who can claim no part of income of property as their income as distinguished from income of organization, commit control and management of such property, for profit, to trustees, free from their own immediate control or interference, except that they may act by majority in amount and interest for purpose of allowing extra compensation to trustees, filling vacancies in office of trustees or modifying terms of declaration of trust, is an "association" and taxable as such under Section II, G (a), of act October 3, 1913. (T. D. 2720; June 4, 1918. Ct. Dec.)

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Massachusetts trusts—Continued.

—— Stamp tax on certificates of shares.

Tax imposed by act October 3, 1917, on issue or transfer of capital stock applies to issue or transfer of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

National farm-loan associations.

National farm-loan associations, as provided in section 26, of act July 17, 1916, are exempt from capital stock tax imposed by section 407 of act September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

"Person" includes, when.

The word "person" within Regulations No. 40, part I, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes the plural as well as the singular and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

Sales associations.

Farmers', fruit growers', or like associations, organized and operated as sales agents for purpose of marketing products of members and turning back to them proceeds of sales less necessary selling expenses on basis of quantity of produce furnished by them, are exempt from capital stock tax imposed by section 407 of act September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Shippers—Refund of transportation tax.

Where shipper, claiming refund of transportation tax collected on property in process of exportation, is member of association of similar shippers, such association may, as agent for first shippers, make blanket claim on Form 46 in behalf of individual members; formal demand of each shipper must be attached to and forwarded with Form 46 for refund of amount to shipper, such demand showing total amount of charges and total amount of tax paid by each shipper, and such demands must be aggregated by association and securely attached to claim before same is filed with commissioner. (T. D. 2727; June 5, 1918.)

Stamp tax on stock sales.

Transfer of shares or certificates of stock in any association made by the person loaning stock to another borrowing such stock to effect a sale, and also transfer of shares or certificates of stock from a borrower returning them to lender in fulfillment of borrower's obligation to buy in and return stock, are both subject to tax imposed by sections 800 and 807 of the act of October 3, 1917; in so-called short-sale transaction, there are four taxable sales or transfers: (1) Sale of stock by person making short sale, (2) transfer from lender of stock to person making short sale, (3) purchase by borrower of stock to return to lender, (4) transfer by borrower to lender of shares to replace those borrowed. (T. D. 2685; Mar. 30, 1918.)

ATHLETIC CLUBS.

Dues—Basis of tax.

Tax imposed by section 701 of act of October 3, 1917, is 10 per cent of any amount paid as dues or membership fees (including initiation fees and any payments required for becoming or remaining a member as well as extraordinary dues or assessments) to any athletic or sporting club or organization where such dues or fees are in excess of $12 per year; where all dues or fees payable in any one year aggregate more than $12, tax attaches to each payment; if dues exclusive of initiation fee are not in excess of $12 a year, no tax is payable except from members paying such fee. (T. D. 2681; Mar. 26, 1918.)

—— Clubs included.

Athletic and sporting clubs include boating, tennis, golf, boxing, canoe, fishing, and hunting clubs, and any organizations for practice or promotion of athletics or sports; Commissioner of Internal Revenue shall determine whether a club or organization is an athletic or sporting club within meaning of section 701 of act of October 3, 1917, upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

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ATHLETIC CONTESTS.

Admissions.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax or by issue of ticket for another game the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements of subsequent games. (T. D. 2681; Mar. 26, 1918.)

Admissions of baseball reporters and telegraphers occupying special space at baseball parks and admitted by passes issued by baseball writers' association are exempt from tax under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

ATTORNEYS AT LAW.

Income tax—Information at source.

Fees paid to lawyers aggregating less than $800 for the year need not be reported. (T. D. 2670; Mar. 11, 1918.)

—— Net income.

In case of professional man who rents property for residential purposes but receives there clients or callers in connection with his professional work (place of business being elsewhere), no part of rent is deductible as business expense. (T. D. 2690; art. 8.)

Theaters—Admission tax.

Attorneys for theaters are exempt from tax imposed by section 700 of act of October 3, 1917, when entering theater in course of their employment, but must pay it when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

ATTORNEY, POWER OF.

Assignment of insurance policies—Stamp tax.

No stamp tax is imposed upon power of attorney in transfer by assignment, absolute or as collateral security, of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in assignee. (T. D. 2599; Dec. 3, 1917.)

Income taxes—Returns.

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority conferred by power of attorney, is not a fiduciary within the income-tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney liability under the law rests with the principal. (T. D. 2690; art. 29.)

Copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear impress of the seal. (T. D. 2690; art. 226.)

AUTOMOBILES.

Definition.

An automobile is a self-propelling vehicle usually designed to run on a road, containing the means of propulsion within itself. (T. D. 2719; Art. VIII.)

An automobile truck or wagon is an automobile used primarily for transporting articles. (T. D. 2719; Art. VIII.)

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Excise taxes—Assembled car.

A usable, substantially completed automobile produced by assembling new parts of trucks and cars is subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. IX.)

—— **Bodies.**

Automobile bodies and other attachments and accessories to automobiles and motorcycles are not taxable when sold separately, but they are when sold as part of an automobile or motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

Dealer who contracts to sell to customer a truck composed of a tax-paid chassis and a body to be added by body builder and who performs his contract is liable to tax as manufacturer of completed truck, though order to body builder purports to be that of customer through the dealer as his agent. (T. D. 2795; Feb. 26, 1919.)

—— **Chassis.**

A chassis is an automobile within the meaning of section 600 (a) of the act of October 3, 1917, and is tax payable by manufacturer thereof; where person other than manufacturer of chassis completes and sells automobile, tax must be paid on complete car less any tax already paid on the sale of the chassis. (T. D. 2719; Art. IX.)

—— **Combination of vehicles.**

Single sale by dealer of tractor and trailer bought by him together tax paid, and an extra trailer, is not taxable unless combination of the three vehicles (otherwise than merely by coupling) forms a functioning vehicle. (T. D. 2795; Feb. 26, 1919.)

—— **Demountable top added.**

If a dealer adds a demountable top to a tax-paid automobile or a driver's cab to a tax-paid truck, the sale of the improved vehicle is not subject to excise tax. (T. D. 2795; Feb. 26, 1919.)

—— **Fire engines.**

A self-propelled fire engine, at least if designed to carry only such persons as are necessary to drive it, is not spoken of and is not to be regarded as an automobile; if, however, it is specially designed to carry firemen not employed in or about the driving of the machine, it must be regarded as falling within the scope of section 600 (a) of the act of October 3, 1917; on other hand automobiles and automobile trucks equipped as hook and ladders, hose carts, etc., for the use of firemen, are taxable. (T. D. 2719; Art. IX.)

—— **Machine guns.**

Motor-driven machine guns are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— **Motorcycles.**

A motorcycle is a motor-driven bicycle. (T. D. 2719; Art. VIII.)

—— **Motor-driven machines.**

Motor-driven machines for pulling vehicles around factories and railway stations are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— **Motor units.**

A motor unit, designed to be attached to a bicycle so as to make it self-propelling like a motorcycle, is not taxable when sold separately, but when sold attached to a bicycle or to a children's buckboard, the complete vehicle is subject to the tax as a motorcycle or automobile. (T. D. 2719; Art. X.)

—— **Rate of tax.**

Tax imposed by section 600 (a) of the act of October 3, 1917, is 3 per cent of the price for which automobiles, automobile trucks, automobile wagons, and motorcycles are sold by the manufacturer. (T. D. 2719; Art. VIII.)

—— **Scope of tax.**

To come within the scope of the tax imposed by section 600 (a) of the act of October 3, 1917, a machine must be a vehicle or conveyance, that is, designed primarily for the transportation in or upon it of persons or property. (T. D. 2719; Art. IX.)

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Excise taxes—Continued.

—— **Speedometers.**

Speedometers and other attachments and accessories to automobiles and motorcycles are not taxable when sold separately, but they are when sold as part of an automobile or motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

—— **Track use.**

An automobile adapted for use on a track is subject to the tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. VIII.)

—— **Tractors.**

Tractors for pulling agricultural implements are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

A tractor which has no body or provision for carrying the load, but is intended to haul trailers, is not taxable; if it has a body, no matter how small the carrying capacity, or is designed for attachment, permanent or temporary, to a two-wheel trailer, in such a way as to carry part of the load, it is subject to tax as an automobile truck or wagon; if sold in combination with such trailer, the tax is on the total price; a four-wheel trailer complete in itself, having no connection with an automobile except the necessary coupling when drawn by it, is not subject to tax. (T. D. 2719; Art. X.)

—— **Truck units.**

So-called truck units, intended to be attached to pleasure car chassis so as to convert them into trucks, are not taxable when sold separately; if sold in combination with a new chassis, however, tax is imposed upon price of complete truck. (T. D. 2719; Art. X.)

—— **Used or second-hand automobiles.**

Used or second-hand automobiles are not subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. X.)

Forfeiture.

Nonparticipation of owner of automobile in its use in transporting distilled spirits upon which the tax had not been paid is no bar to proceeding in rem for its forfeiture. (T. D. 2776; Dec. 11, 1918.)

Under section 3450, Revised Statutes, automobile used in transporting spirituous liquors on which tax has not been paid, borrowed from purchaser thereof, who had given his note secured by deed of trust thereon for unpaid purchase price, is subject to forfeiture as against seller, though under terms of deed and the State law the seller could require the trustee to seize such automobile and sell it in satisfaction of his deed, and though he had no knowledge of any intention to use such automobile for an illegal purpose. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

Motor fuel.

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

Formula No. 28 for special denaturation of alcohol for use in manufacture of motor fuel stated; formula authorized to be used exclusively in manufacture of motor fuel by a closed and continuous process in connection with a central denaturating bonded warehouse; analytical requirements; process after denaturation; samples of finished product to be furnished; application for use of denaturant to be accompanied by blue prints and full description of process and premises. (T. D. 2769; Nov. 4, 1918.)

Seizure—Release under bond.

In case of seizures of automobiles, horses, and other similar property, collectors instructed to refuse to accept bond under section 3459, Revised Statutes, for release unless property was seized under provisions of section 3453, Revised Statutes, only; where seizure was not made under such section, if property is appraised at $500 or less, collectors will dispose of same promptly under provisions of section 3460, unless bond for costs is given, in which event bond should be forwarded to United States attorney with request to institute libel proceedings; if value exceeds $500, property should be turned over to United States marshal and the attorney requested to institute forfeiture proceedings, no bond for costs being required; question of release of property on bond is within jurisdiction of court. (T. D. 2511; July 12, 1917.)

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Transportation tax.

"Regular established line," as used in act of October 3, 1917, construed to mean a regularity of operation of transportation facilities by motor power between definite points; casual or intermittent transportation of passengers by automobile between two points would not constitute a regular established line; automobile that is merely for hire and which takes passenger to any point he directs does not constitute regular established line. (T. D. 2795; Feb. 26, 1919.)

AVOCATION.

Definition.

"Avocation" is that which takes one from his regular calling; a minor occupation. (T. D. 2690; art. 8.)

BAD DEBTS.

Definition.

Bad debt or worthless debt, as contemplated by income tax law and which may be deducted in return of income, is one which has been actually ascertained to be worthless and charged off within taxable year. (T. D. 2690; art. 8.)

Income taxes—Deduction.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

BANKS AND BANKING.

Admission taxes—Deposits of payments.

Collector of internal revenue may, in his discretion, require the person receiving payments for taxes to make daily deposit of sums so received in special account in such bank as collector shall designate. (T. D. 2681; Mar. 26, 1918.)

Capital stock tax—Computation.

The individual fair value of stocks of two banks that have a definite combined market value but no separate market value, may be ascertained by apportionment of the market value on the basis of the capital stock, surplus, and undivided profits of each corporation for the fiscal year. (T. D. 2426; Dec. 29, 1916.)

—— Exemptions.

Cooperative banks without capital stock organized and operated for mutual purposes and without profit are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Mutual savings bank not having capital stock represented by shares is specifically exempt from tax under section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Federal land banks, as provided in section 26 of act of July 17, 1915, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Tax does not apply to joint-stock land banks as to income derived from bonds or debentures of other joint-stock land banks or Federal land bank belonging to such joint-stock land bank. (T. D. 2750, art. 12; Aug. 9, 1918.)

Circulation of bank notes.

The 10 per cent tax on the circulation of notes other than those issued by national banks applies to Canadian bank notes; the tax applies to all persons, firms, associations, and corporations circulating notes other than national-bank notes, whether or not such persons, firms, associations, and corporations issue notes of their own. (T. D. 2782; Dec. 24, 1918.)

Estate tax—Nonresident decedents.

Banking institutions holding money of nonresident decedents on deposit or for any specific purpose, so long as title rests in nonresident decedent, his estate or his heirs, may not release to foreign administrator or executor or foreign beneficiary such money until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfactory of tax lien. (T. D. 2454; Feb. 28, 1917.)

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Income taxes—Exemptions.

Federal land banks are exempted from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Joint-stock land banks are exempt from tax without condition as to income specified in the law; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Mutual savings banks not having capital stock represented by shares are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Banking corporations which are required to maintain a "Depositors' guaranty fund" may deduct amount set apart each year to this fund, provided that such fund, when set aside and carried to credit of State officer, ceases to be asset of bank but may be withdrawn upon demand, by such board or State officer to meet needs of these officers, as required by State laws, in reimbursing depositors in insolvent banks, and provided further that no portion of amount is returnable to assets of banking corporation; if amount is simply set up on books of bank as reserve to meet contingent liability and remains asset of bank, it will not be deductible except as it is actually paid out as required by law and upon demand of proper State officers. (T. D. 2690; art. 146.)

—— Gross income.

Gross income of banks and other financial institutions consists of the total revenue received within the year for which return is made from operation of business, including income, gains, or profits, from sale of capital assets and from all other sources; in cases where securities or other assets, real, personal, or mixed, acquired prior to March 1, 1913, are disposed of during year, gain or loss thereon will be based upon difference between price at which disposed of and fair market price or value of such assets as of March 1, 1913, or difference between price at which disposed of and the cost, if acquired subsequent to that date. (T. D. 2690; art. 90.)

In case of banking institutions, business of which is to receive and loan money, using capital, surplus, and deposits for this purpose, undistributed income actually represented by loans is invested and employed in the business so as to be exempt from 10 per cent tax imposed by section 10 (b) of the act of September 8, 1916, as amended. (T. D. 2736; June 18, 1918.)

In case of banking institutions, business of which is to receive and loan money, using capital, surplus, and deposits for this purpose, such reasonable amounts of undistributed income as are retained for future loans are not subject to tax of 10 per cent imposed by section 10 (b) of the act of September 8, 1916, as amended. (T. D. 2736; June 18, 1918.)

—— Information at source.

Interest accrued on bank deposits before it has been passed to the credit of the individual depositor need not be reported. (T. D. 2670; Mar. 11, 1918.)

Banks and collecting agents, debtor corporations, and withholding agents, authorized to accept, until June 1, 1918, certificates of ownership on old forms when properly executed. (T. D. 2702; Apr. 18, 1918.)

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent, then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed by failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed or accompanied by proper ownership certificates, giving all information called for by such certificate; where first licensed bank or col-

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Income taxes—Continued.

——**Information at source**—Continued.

lecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

——**Net income.**

Taxes on bank stock paid under legal requirement by bank for its stockholders are deductible by stockholders and not by bank; where bank stock is sold and transferred between date of assessment and payment of tax, in absence of statute governing, stockholder liable for tax (if tax was actually paid) will have benefit of tax deduction; this is question of fact and to be determined as such. (T. D. 2690; art. 8.)

Payments under legal requirements by bank for its stockholders of taxes on bank stock are regarded as in the nature of additional dividends and should be included by stockholder in his dividends received. (T. D. 2690; art. 8.)

Exemption provided for in Federal reserve statute, section 3, of the act of October 22, 1914, attaches to and follows income derived from dividends on stock of Federal reserve banks into hands of stockholders, that is to say, dividends received on stock of such banks are exempt from taxes imposed by acts of September 8, 1916, as amended, and of October 3, 1917; this ruling does not contemplate that dividends paid by member banks are exempt from the 2 per cent tax, but such dividends, in so far as they may be received by other corporations, may be treated as a credit against net income in computing the war income tax imposed by Title I of the act of October 3, 1917. (T. D. 2690; art. 86.)

Where banks or other corporations loan money by discounting bills or notes, one of two methods shall be used in determining amount of discount to be reported as income, namely, (1) if bank or corporation makes practice of crediting discount directly to "discount account" or to profit and loss, total amount thus credited during year shall be considered income, regardless of fact that portion may represent discount paid in advance; (2) if bank or corporation follows practice of crediting discount to "unearned discount account" and later, as discount becomes earned, debits unearned account and credits "earned discount account" with amount so earned, total amount credited to "earned discount account" during year shall be considered income. (T. D. 2690; art. 114.)

In case of banks and banking associations, loan or trust companies, interest paid within year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from gross income of such corporation. (T. D. 2690; art. 190.)

Banks paying taxes assessed against stockholders on account of ownership of shares of stock issued by such bank can not deduct amount of taxes so paid unless and to extent that laws of State in which they do business by specific terms make tax direct liability of such banks; fact that State laws make it duty of banks to pay tax does not necessarily make tax a liability of the banks, and such payments are not deductible from gross income of such banks; rule applies only to taxes levied

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Income tax—Continued.

—— **Net income**—Continued.

upon value of capital stock, and is not intended to prevent bank from deducting any State tax imposed on value of corporation's real estate, furniture, and fixtures, or as an excise or franchise tax; rule applies in case of corporations other than banks, upon value of whose stock taxes are assessed to the stockholders. (T. D. 2690; art. 192.)

—— **Withholding.**

Interest received from deposits in banks located within the United States paid to nonresident alien individuals and corporations constitutes income received from sources within the United States and is subject to withholding provisions of act of October 3, 1917. (T. D. 2623; Dec. 28, 1917. T. D. 2652; Feb. 6, 1918.)

Collecting agents, responsible banks and bankers receiving coupons for collection with ownership certificates attached may present coupons with original certificates to debtor corporation or withholding agent for collection, or original certificates may be detached and forwarded direct to Commissioner of Internal Revenue, providing such agent shall substitute for such certificate its own certificate and shall keep complete record of each transaction showing specified data; identification of substitute certificate; substitute certificates discontinued with respect to ownership certificates presented with coupons for collection by nonresident alien individuals, corporations, etc. (T. D. 2690; art. 43.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate, Form 1071, revised, shall be used for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Special tax on bankers—**Accrual.**

Burden is on taxpayer to establish by preponderance of evidence that tax collected or some part of it was not due. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

—— **Assets.**

Deposits and investments are all equally assets of the bank, and claims of depositors are liabilities; capital, surplus, and undivided profits are what may be left after satisfaction of liabilities to depositors and other creditors; creditors may be paid out of any portion of the assets, and the capital, surplus, and undivided profits represent the residue which, like claims of creditors, may be made good out of any of the securities, cash, bills of exchange, promissory notes, or other resources of the bank, including its real estate. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

—— **Bookkeeping.**

The fact of employment or nonemployment of permanent investments in banking is not to be determined by methods of bookkeeping, but by real transactions; it is a question of fact to be determined at the trial. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

—— **Brokers.**

A bank which does not hold itself out to the public as engaged in negotiating purchases or sales of stock, bonds, etc., but merely negotiates the purchase and sale thereof for depositors and other patrons, without remuneration and for their accommodation only, does not thereby incur liability to special tax as a broker. (T. D. 2782; Dec. 24, 1918.)

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Special tax on bankers—Continued.

—— Capital.

A bank which, in addition to its banking business, acts as trustee, receiver, executor, or administrator, or engages in underwriting or promoting new enterprises or refinancing old enterprises, or buys and sells securities on its own account for profit, is subject to tax imposed by first paragraph of section 3 of the act of October 22, 1914, upon total amount of its capital, including surplus and undivided profits, unless it be shown that specific portion of its capital is used in such other business and that such use does not constitute banking. (T. D. 2895; July 21, 1919. Ct. Dec.)

Mere showing that specific portion of the capital, including surplus and undivided profits, is used in such other business is not alone sufficient to show that such capital is not used in banking. (Id.)

—— Constitutionality.

Tax imposed on bankers by the act of October 22, 1914, is not unconstitutional as being a direct tax and not apportioned. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

—— Trust companies.

Capital, surplus, and undivided profits of trust company doing business as banker, invested in stocks, bonds, and securities, are treated as used and being in banking, within the meaning of section 3 of the act of October 22, 1914, and the tax imposed is upon so much thereof as are used in the banking business. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

Stamp taxes—Bankers' acceptances.

The rule that the stamp tax on drafts and checks imposed by schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to bankers' acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

—— Certificates of deposit.

Certificates of deposit are not taxed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

—— Loans.

Neither security agreement signed by prospective borrower of bank, empowering bank to apply any securities, money, or other property of borrower in hands of bank, to satisfy debt, nor form of application for the loan is subject to stamp tax imposed by Schedule A of section 807 of act of October 3, 1917. (T. D. 2599; Dec. 3, 1917.)

BANKRUPTCY.

Income taxes—Bad debts.

Actual determination of worthlessness of debt in case of bankruptcy is possible only when settlement in bankruptcy shall have been had; only difference between amount received in distribution of assets of bankrupt and amount of approved claim may be considered for the purpose of deduction. (T. D. 2690; art. 8.)

Priority of Federal taxes.

Section 3466, Revised Statutes, is in pari materia with sections 64 (a) and 64 (b) of bankruptcy act, and to extent that it is in conflict therewith it is superseded thereby; therefore, no priority is given to Federal taxes except over creditors, and such taxes are not entitled to priority over administration expenses of the bankruptcy proceedings. (T. D. 3000; Apr. 10, 1920. Ct. Dec.)

Trustees—Distilled spirits in hands of.

Under section 1003 of act October 3, 1917, tax on spirits in hands of bankruptcy court June 1, 1917, shall be collected from purchaser thereof by trustees in bankruptcy or their agent, and quantity sold and amount of tax collected during any calendar month shall be reported to collector of district in which sales are made not later than 10th day of month succeeding, which report shall be transmitted to Commissioner's office, whereupon assessment will be made and tax collected in ordinary course; person collecting tax, where it is specifically charged as such to person to whom spirits are delivered or not, will be held liable for same. (T. D. 2749; July 29, 1918.)

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Trustees—Continued.

—— **Returns.**

Under section 13, paragraph (c), act September 8, 1916, receivers, trustees in bankruptcy, or assignees in charge of and operating property and business of corporations, must make returns of annual net income and pay tax regardless of what disposition, subject to orders of court, may be made of such income; such receiver, etc., stands in place of corporate officers and must perform all duties and assume all liabilities which would devolve upon such officers were they in control; income which he receives is income of corporation and is subject to tax imposed in so far as it exceeds deductions or allowances authorized by law, and such receiver, etc., must make true return of each year during which he is in custody and control of business or properties, and will be liable to all penalties for failure to meet any of its requirements. (T. D. 2690; art. 209.)

—— —— **Copies.**

Copy of income return may be furnished by Commissioner to person who made return or to his duly constituted attorney, or if entity is in hands of trustee in bankruptcy, to such trustee upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision. (T. D. 2962; Jan. 7, 1920.)

—— **Stamp tax on bonds.**

Indemnity or surety bonds given by trustees in bankruptcy for purpose of qualifying as such are bonds required in legal proceedings, and therefore exempt from taxation under Schedule A, act of October 3, 1917. (T. D. 2647; Feb. 2, 1918.)

BASEBALL.

Balls and bats—Excise taxes.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which bats and balls are sold by the manufacturer. (T. D. 2719; Art. XVII.)

Where baseball bats or other sporting goods taxable under section 600 (f), act of October 3, 1917, are prepared in final marketable form by A, who marks or labels them only with the name or trade-mark of B, who on their being delivered to him sells them without further manufacture to his own customers, if transaction between A and B is an actual sale and not merely employment of A by B to manufacture the articles as his agent at a specified profit, A is the "manufacturer" who is liable for the tax; article 2 of Regulations No. 44 can not be construed as adopting any of the provisions of article 21. (T. D. 2795; Feb. 26, 1919.)

Games—Admissions.

Admissions of baseball reporters and telegraphers, occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, are exempt from tax under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

BEEF, IRON, AND WINE.

Beverages.

See "Beverages."

BEER.

See "Fermented Liquors."

Root beer.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of root beer manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells root beer is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such root beer is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

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BENEFICIARY SOCIETIES.

Capital stock tax.

Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for payment of life, sick, accident, or other benefits to members of such society, order, or association, or their dependents, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income tax—Exemptions.

Beneficiary society, order, or association operating under lodge system or for exclusive benefit of members of a fraternity itself operating under lodge system is exempt from tax, without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Society or association "operating under the lodge system," which is exempted under the provisions of the income-tax act, is considered to be one organized under a charter with properly appointed or elected officers with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by dues, fees, or assessments. (T. D. 2690; art. 239.)

In order that fraternal beneficiary societies, mutual insurance companies, etc., may be exempted, it is not sufficient that they merely claim exemption, but it must be shown by affidavit or otherwise to satisfaction of Commissioner of Internal Revenue that conditions set forth in exempting provisions have been fully met. (T. D. 2690; art. 239.)

Congress exempted certain cooperative enterprises from all income taxation, but, with the exception of fraternal beneficiary societies, it imposed in express terms such taxation upon "every insurance company." (T. D. 3046; July 19, 1920. Ct. Dec.)

Insurance—Exemptions from tax.

Fraternal beneficiary society, order, or association, operating under lodge system or for exclusive benefit of members of fraternity itself, operating under lodge system, and providing for payment of life, sick, accident, or other benefits to the members of such society or order or their dependents, is exempt from tax on insurance. (T. D. 2588; Nov. 21, 1917.)

BENEFIT PERFORMANCES.

Admissions.

Where proceeds of admissions inure exclusively to benefit of religious, educational, or charitable institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling; admissions to entertainments for charity are taxable if funds are administered by any persons or organizations other than religious, educational, or charitable institutions, societies, or organizations; admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to school or college, but they are if proceeds are used to support athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

BETTERMENTS.

See "Improvements."

BEVERAGES.

Alcohol.

Alcohol may be withdrawn free of tax under act of May 3, 1878, as amended by act of July 8, 1916, for use in surgical operations and treatment of patients, and alcohol so withdrawn by hospitals and sanitariums may be used, even though they maintain no educational facilities; provided, however, that alcohol so withdrawn shall not be used as a beverage nor in any way for the manufacture or compounding of a beverage for use in any such institution or elsewhere; privilege of withdrawal will not be extended to any institution conducted directly or indirectly for profit or from operations of which any profit, other than fair and reasonable compensation for services performed, is derived by any stockholder, officer, or other person; withdrawals must be according to method and subject to restrictions imposed by T. D. 2496. (T. D. 2745; July 5, 1918.)

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Alcoholic medicinal preparations.

Alcoholic medicinal preparations held to be insufficiently medicated to render them unfit for use as a beverage listed. (T. D. 2544; Oct. 19, 1917.)

Cauffman's ginger brandy not taxed as a proprietary medicine, though label shows medicinal claims; being an alcoholic compound beverage, only alcohol tax paid at the rate of $3.25 per gallon may be used in compounding it, and no distilled spirits fermented after 11 o'clock p. m. of September 8, 1917, may be used in its manufacture; tax of 15 cents per proof gallon required on all compound in possession of rectifier on October 4, 1917, or thereafter produced; additional floor tax on product must be paid after inventory and return in same manner as floor taxes on distilled spirits. (T. D. 2536; Oct. 13, 1917.)

So-called nonbeverage alcohol taxable at rate of $2.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of prescription compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Alcohol held on October 3, 1917, by manufacturers of proprietary medicines for use in manufacture of medicines is subject to floor tax, unless on day act of October 3, 1917, took effect it was in process of manufacture and had been rendered unfit for beverage purposes. (T. D. 2547; Oct. 22, 1917. Overruled by T. D. 2643; Jan. 28, 1918.)

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Special tax required for sale of preparations insufficiently medicated to render them unfit for use as a beverage, even though such sales are for medicinal use. (T. D. 2544; Oct. 19, 1917.)

Where any preparation containing more than one-half of 1 per cent of alcohol by volume, whether sold as medicine or flavoring extract or in any other manner, does not conform to required standard, liability will be asserted to tax at beverage rate on alcohol used; similar action will be taken in case of preparation made in conformity with such standard if sold by a manufacturer for beverage purposes. (T. D. 2760; Oct. 9, 1918.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture; if no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Persons who manufacture or deal in alcoholic medicinal preparations, flavoring extracts, etc., even though made in accordance with standards prescribed, are only relieved from special tax liability so long as they make sales for legitimate purposes only; if preparation containing more than one-half of 1 per cent of alcohol by volume is sold for beverage purposes or under circumstances warranting reasonable belief that it is to be used as a beverage, liability to tax will be asserted regardless of what other ingredients preparation may contain. (T. D. 2760; Oct. 9, 1918.)

Apothecaries will not be charged with liability to special tax on account of sale in quantities not exceeding 1 pint of alcohol for bathing or antiseptic purposes, providing it is compounded prior to sale, but not in bulk or in advance of orders, in such manner as to make it unfit for use as beverage; approved formulas for purpose of rendering alcohol unfit for beverage stated; containers of alcohol treated in such manner must bear "poison" labels. (T. D. 2760, Oct. 9, 1918.)

Apple cider.

Sweet apple cider is taxed under section 313 (b) of act of October 3, 1917, if it contains less than one-half per cent of alcohol and no added sugar. (T. D. 2719; Art. XXXI.)

Carbonated beverages.

The tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of carbonated waters and beverages manufactured and sold by the manufacturer of the carbonic acid gas used in carbonating same; tax attaches when person who (a)

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Carbonated beverages—Continued.

manufactures and (b) sells such waters and beverages is also (c) the manufacturer, producer, or importer of the carbonic acid gas used in their manufacture; soda fountain proprietor manufacturing his own carbonic acid gas must pay tax on carbonated drinks dispensed at such fountain; carbonated waters or beverages are not taxable when manufacturer buys his carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Carbonic-acid gas.

Tax imposed by section 315 of the act of October 3, 1917, is 5 cents for each pound of carbonic acid gas in drums or containers sold by the manufacturer, if intended for use in the manufacture or production of carbonated water or drinks, including fermented liquors containing less than one-half per cent of alcohol; carbonic acid gas used in drawing beer from containers or in operation of refrigerating plants, or in preserving food products, or in manufacture of beverages containing one-half per cent or more of alcohol, is not subject to the tax; in all cases of sales of carbonic acid gas for use other than in the manufacture of carbonated water or other drinks, manufacturer must prominently stamp on or affix to container a warning, as follows: "Federal tax not paid. Unlawful to use in the manufacture of beverages." (T. D. 2719; Art. XXXV.)

Tax imposed by section 315 of the act of October 3, 1917, on carbonic acid gas, is to be paid to manufacturer by producer of such gas at the time of sale, and former must collect amount of tax and make monthly returns under oath in duplicate, on Form 726, and pay taxes so collected to collector of district in which his principal office or place of business is located; returns are to be rendered and tax paid on or before last day of each month, covering transactions of preceding month, first return to cover all transactions since October 3, 1917. (T. D. 2719; Art. XXXVI.)

Carbonic acid gas used in drawing beer from containers is not subject to tax imposed by section 315 of the act of October 3, 1917. (T. D. 2719; Art. XXXV.)

Computation of tax.

In computing tax a fractional part of a cent should be disregarded unless it amounts to one-half cent or more, in which case it should be increased to a full cent. (T. D. 2719; Art. XXXIX.)

Definitions.

A "soft drink" within the meaning of section 313 (a) of the act of October 3, 1917, is a nonintoxicating beverage, containing less than one-half per cent of alcohol. (T. D. 2719; Art. XXIX.)

An "extract" is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

A "prepared sirup" is a simple sirup with flavoring and perhaps other materials; a simple sirup, which is not taxable, is a preparation of sugar and water, or rock candy and water. (T. D. 2719; Art. XXIX.)

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

A "bottler," within section 313 (c) of act October 3, 1917, is the producer or any person who puts a liquid in bottles or other closed containers and sells it. (T. D. 2719; Art. XXXIII.)

A "dealer," within section 1007 of act October 3, 1917, does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

Distilled spirits—Bonds.

Persons, firms, or corporations (except distillers and proprietors of bonded warehouses, making deliveries in original tax-paid packages, who are already required to give bonds) desiring to use or sell or to use and sell distilled spirits for other than beverage purposes must apply for permit and file bond with corporate surety or with two personal sureties who qualified on Form 33, to be approved by collector; bond with personal sureties, without justification by the sureties on Form 33, may be accepted on certain conditions; single bond authorized where same person or corporation is operating number of drug stores in same city. (T. D. 2559; Oct. 26, 1917. T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

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Distilled spirits—Continued.

—— **Books and transcripts.**

Distillers and storekeepers required to make certain entries on their records when packages of distilled spirits are sent out from distillery; rectifiers required to make certain entry in record when spirits are received for rectification; wholesale liquor dealers required to make entry on book 52 and on monthly transcripts. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Brandy.**

Fermenting and distilling of any materials for production of beverage brandy after September 8, 1917, is prohibited; brandy produced from grapes may be distilled for fortifying sweet wines under act of September 8, 1916, and act of August 10, 1917; brandy may be produced from materials fermented after September 8, 1917, for nonbeverage purposes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Compromise of violation of law.**

Any violation of law or regulations which is violation of act of August 10, 1917, only, can not be made subject of compromise by Commissioner of Internal Revenue, under section 3229, Revised Statutes, which section is applicable to offenses arising under internal revenue laws only. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Floor tax.**

All distilled spirits in possession of manufacturing chemists, pharmacists, or any other person held for sale, although not for sale as distilled spirits on October 4, 1917, are subject to additional floor tax at $1.10 or $2.10 per proof gallon as case may be; distilled spirits in possession of manufacturers on October 4, 1917, which, in legitimate processes of manufacture, had been rendered unfit for use as beverages, are not subject to additional floor tax. (T. D. 2566; Oct. 27, 1917. Overruled by T. D. 2643; Jan. 28, 1918.)

—— **Labels.**

Distilled spirits manufactured for other than beverage purposes from foods, fruits, etc., fermented after September 8, 1917, when entered into warehouse must bear printed label, to be provided by distiller, bearing stated legend; manner of affixing label and form thereof stated; pasting on metal packages; signatures; advertising matter; changing spirits from one container to another; effacement and obliteration. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Losses.**

Where losses occur from spirits covered by bond, rate of tax to be asserted in connection with such losses will be $6.40 per gallon when bond is written in penal sum measured by that rate of tax; when penal sum of bond covers tax at rate of $2.20 a gallon, assessment on account of losses will be made at that rate, unless it shall appear that spirits or any part thereof were diverted to beverage purposes, or for use in manufacture or production of any article used or intended for use as a beverage, in which event tax will be assessed at rate of $6.40 a gallon. (T. D. 2821; Apr. 10, 1919.)

—— **Materials prohibited in manufacture.**

Manufacture of distilled spirits from foods, fruits, food materials, or feeds, for beverage purposes prohibited after September 8, 1917; use of distilled spirits manufactured from such materials after September 8, 1917, in manufacturing or preparing beverages or sale of such spirits for beverage purposes forbidden; materials prohibited for use in producing beverage spirits held to include cereals, tubers, fruits, cannery refuse, sour wine, etc.; production of grape spirits solely for use in fortification of sweet wines under act of September 8, 1916, not within prohibition. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Section 15 of the act of August 10, 1917, contemplates that where foods, fruits, food materials or feeds are used in manufacture of distilled spirits for beverage purposes all fermentation must be finished not later than 11 o'clock p. m. of September 8, 1917. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917.)

Dilute saccharine liquid, derived from sawdust, wood-waste, pulp, and like bases, is material from which the production of distilled spirits for beverage purposes is prohibited by Section 15 of the food-control act of August 10, 1917. (T. D. 2526; Sept. 25, 1917.)

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Distilled spirits—Continued.

—— **Materials prohibited in manufacture**—Continued.

Internal revenue storekeeper-gaugers and storekeeper-gaugers assigned as gaugers, will be guided by act of August 10, 1917, and regulations and rulings thereunder, and will not permit the use in the production of beverage spirits of any material held by T. D. 2559 to be foods, fruits, food material, or feed. (T. D. 2576; Nov. 10, 1917.)

Spoiled cereals may not be used in the production of beverage spirts, but may be used in production of nonbeverage spirits. (T. D. 2582; Nov. 17, 1917.)

——**Nonbeverage products.**

Distilled spirits for other than beverage purposes may be used only in the arts, sciences, and trades, where circumstances are such that there can be no probability that the spirits will be used or sold for beverage purposes or in the manufacture or production of any article intended for use as a beverage; medicinal, culinary, and flavoring extracts; cosmetics and toilet preparations; proprietary medicines; potable proof spirits. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Distillers producing nonbeverage spirits under act of August 10, 1917, required to conserve animal feed, contained in residue or slop, after distillation of spirits from cereals. (T. D. 2582; Nov. 17, 1917.)

Distillers producing alcohol exclusively for other than beverage purposes may operate on Sundays, and collectors may require storekeeper-gaugers and storekeeper-gaugers in capacity of gaugers to remain on duty; notation to be made on vouchers for monthly compensation to effect that distilleries were in operation under provisions of section 302 of act of October 3, 1917; distillers manufacturing ethyl alcohol for nonbeverage purposes exclusively may be granted permission to fill fermenting tubs in sweet-mash distillery not oftener than every 48 hours. (T. D. 2636; Jan. 24, 1918.)

Distilled spirits held by manufacturers and intended not for sale as spirits, but for manufacture into nonbeverage products, are not subject to taxation under section 303 of act of October 3, 1917. (T. D. 2643; Jan. 28, 1918.)

Homeopathic pharmacists who are unwilling to take out permits and give bonds required may purchase and use nonbeverage alcohol produced from materials fermented prior to 11 o'clock p. m., September 8, 1917, and taxable at the rate of $3.20 per proof gallon. (T. D. 2699; Apr. 16, 1918.)

—— **Penalties for violating law and regulations.**

Storekeeper-gaugers, storekeeper-gaugers assigned as gaugers, and deputy collectors required to report to immediate superiors and revenue agents and collectors required to report to Commissioner violations of law and regulations of date of October 26, 1917; penalty for violation of regulations stated; violation of law or regulations which is violation of act of August 10, 1917, only, not subject of compromise by commissioner under section 3229, Revised Statutes. T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Permits.**

All persons, firms, or corporations desiring to use or sell, or to use and sell distilled spirits for nonbeverage purposes required to file application for permit; all persons forbidden to sell or deliver distilled spirits for use or sale or for use and sale for nonbeverage purposes, if produced subsequent to September 8, 1917, or tax paid at rate of $2.20 per proof gallon to any person, etc., not qualified, and then only upon delivery of application therefor in due form; contents of application; to whom permits will be issued; recall of permits. (T. D. 2559; Oct. 26, 1917. T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Residue of distilleries.**

Residue from industrial distilleries containing less than one-half of 1 per cent of alcohol by volume, used in making nontaxable beverages, may be manipulated by cooling, flavoring, carbonating, settling and filtering on the distillery premises or on the brewery premises, or transferred from distillery premises to other premises for bottling by means of unstamped packages unlike those ordinarily used for containing fermented liquor, or, if like packages are used, both heads to be equipped in solid color with certain lettering. (T. D 2564; Oct. 26, 1917.)

—— **Withdrawals.**

Regulations relative to sale and use of distilled spirits for nonbeverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to alcohol withdrawn for denaturation, to alcohol withdrawn for scientific purposes, to distilled

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Distilled spirits—Continued.

—— **Withdrawals**—Continued.

spirits withdrawn for use of United States free of tax under section 3464, Revised Statutes, or to spirits withdrawn for export. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Applicant for withdrawal or purchase of nonbeverage spirits will make out application in triplicate, filling in necessary data within his knowledge; instructions with relation to distribution of spirits; application to be delivered to vendor of spirits who will fill in necessary data; disposition of triplicates; approval of collector in advance of withdrawal or purchase not required; applicant must sign certificate in prepared spaces without making affidavit. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Exports.

Articles may be normally exported in several ways—(1) they may be shipped by the manufacturer to agent in foreign country and after reaching there may be sold by the agent; (2) they may be shipped by manufacturer to foreign purchaser to fill orders received by agent in foreign country; (3) they may be shipped by manufacturer to foreign purchaser to fill orders received by manufacturer in United States; (4) they may be shipped by manufacturer to foreign purchaser to fill orders solicited by mail and received by mail from foreign purchaser; T. D. 2739 superseded. (T. D. 2781; Dec. 20, 1918.)

Taxes imposed by sections 313 and 315 of the act of October 3, 1917, do not apply to articles sold in foreign commerce by any of the methods outlined by manufacturer, producer, or importer located in one of the several States of the United States; this ruling applies only to cases of exportation by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer; T. D. 2739 revoked. (T. D. 2781; Dec. 20, 1918.)

Taxes imposed by such sections 313 and 315 of the act of October 3, 1917, apply, however, to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Sale to concern doing business in United States is sale for domestic delivery unless terms of order or contract of sale show the seller is to export article or that he is to make such delivery of it as will result in its exportation. Examples of sale by manufacturer which are so taxable, notwithstanding ultimate exportation of articles sold, are: (1) Sale to dealer in United States, effected by compliance with his shipping instructions to export, given subsequent to contract of sale which did not require shipment; (2) sale to export commission house in United States, which is effected by shipment consigned to commission house at domestic port and which is followed by immediate exportation to foreign buyer in whose behalf purchase was made; (3) sale to corporation in United States which immediately exports to foreign concern of which it is a subsidiary; (4) sale to member of foreign partnership conducting buying business in United States for his firm and exporting articles bought. In such cases application of tax is not affected by provision in contract of sale requiring buyer to use or dispose of articles sold only in some foreign country. (T. D. 2781; Dec. 20, 1918.)

Extracts and sirups.

Nonbeverage distilled spirits taxable at rate of $2.20 per proof gallon may be used by manufacturers of flavoring extracts where such extracts are unfit for use as a beverage, and such extracts may in turn be used in manufacturing beverages. (T. D. 2566; Oct. 27, 1917.)

Alcohol tax paid at rate of $2.20 per gallon, whether produced from materials fermented before or after September 9, 1917, may be used in manufacture of bona fide flavoring extracts, which themselves are not fit for beverage purposes; such flavoring extracts may be subsequently used for flavoring beverages whether alcoholic or not. (T. D. 2567; Oct. 30, 1917.)

There is no provision against using flavoring extracts which contain some alcohol to flavor sirups that are to be used in manufacturing soft drinks. (T. D. 2570, Nov. 6, 1917.)

Extracts to be used for household purposes are not taxable. (T. D. 2570; Nov. 6, 1917.)

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Extracts and sirups—Continued.

Distilled spirits used in manufacture of ordinary flavoring extracts are subject only to additional tax of $1.10 per proof gallon imposed by section 303 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Sirups and extracts used by rectifiers of spirits are not taxable under section 313 of act of October 3, 1917. (T. D. 2598; Nov. 24, 1917.)

Alcohol which can not legally be used for beverage purposes may be used in manufacture of flavoring extracts. (T. D. 2598; Nov. 24, 1917.)

Tax imposed by section 313 (a) of the act of October 3, 1917, is based on price for which prepared sirups or extracts, if intended for use in manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places, are sold by the manufacturer; possible selling prices and corresponding tax per gallon in each case, stated. (T. D. 2719; Art. XXVIII.)

An "extract" is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

A "prepared sirup" is a simple sirup with flavoring and perhaps other materials; a simple sirup, which is not taxable, is a preparation of sugar and water, or rock candy and water. (T. D. 2719; Art. XXIX.)

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

Foam, concentrates, acid solution, cocoa paste, ginger-ale paste and emulsions, and ordinary household extracts like vanilla are subject to tax imposed by section 313 (a) of act of October 3, 1917, when sold if intended for use in production of soft drinks; extracts intended for use for culinary purposes or in manufacture of ice cream are not taxable; "sundae dressings," used exclusively for pouring over ice cream, are not taxable; prepared sirups and extracts used by rectifiers of spirits and as bar flavors are not taxable; an extract sold to another extract or sirup manufacturer for use in production of prepared sirup which is to be sold as such is not subject to tax, but manufacturer of prepared sirup must pay tax; no tax is imposed upon sirups or extracts as such used by the maker for further manufacturing purposes and not sold by him. (T. D. 2719; Art. XXX.)

Preparation of fruit juice and sugar, which is not reasonably suitable for beverage purposes and is not so used, but which is used to produce a palatable beverage by being mixed or diluted with water at soda fountains, bottling establishments, and other similar places, is a prepared sirup within the meaning of section 313(a) of the act of October 3, 1917, and was, while that act was in force, subject to tax levied upon such sirup. (T. D. 2932; Oct. 7, 1919.)

Ginger ale.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of ginger ale manufactured and sold by manufacturer of carbonic-acid gas used in carbonating same; tax attaches when person who manufactures and sells ginger ale is also manufacturer, producer, or importer of carbonic-acid gas used in its manufacture; such ale is not taxable when manufacturer buys his own carbonic-acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Inspection of books.

Books of every person liable to tax imposed by section 313 of the act of October 3, 1917, shall be open at all times for inspection by examining internal-revenue officers. (T. D. 2719; Art. XXXIV.)

Medicinal preparations—Excise taxes.

See "Alcoholic medicinal preparations," *ante*.

Artificial mineral waters not carbonated sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

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Mineral waters.

Tax imposed by section 313 (c) of act of October 3, 1917, is 1 cent for each gallon of mineral waters or table waters sold by the producer, bottler, or importer, in bottles or other closed containers, at over 10 cents per gallon; a mineral water sold just as it comes from the ground, except for filtration, is subject to the tax; distilled waters, aerated waters, and artesian-well waters sold for drinking purposes are subject to the tax; a "bottler" is the producer or any person who puts a liquid in bottles or other closed containers and sells it. (T. D. 2719; Art. XXXIII.)

"Other similar places."

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

Payment of tax.

The manufacturer, producer, bottler, or importer of any of the beverages enumerated must pay taxes imposed to collector for district in which his principal place of business is located; tax to be paid on or before last day of each month covering transactions of preceding month; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on gross price, may be adjusted in return for month in which price is finally determined; itinerant manufacturer should pay tax to collector of district where sales are made. (T. D. 2719; Art. XXXIV.)

Tax imposed by section 315 of the act of October 3, 1917, on carbonic-acid gas, is to be paid to manufacturer by producer of such gas at time of sale, and former must collect amount of tax and pay same to collector of district in which his principal office or place of business is located; tax is to be paid on or before last day of each month, covering transactions of preceding month. (T. D. 2719; Art. XXXVI.)

Section 1007 of the act of October 3, 1917, permits an adjustment of tax between manufacturer and dealer, but it does not affect the liability of the manufacturer to return and pay tax to the Government. (T. D. 2719; Art. XXXVII.)

Where manufacturer has, prior to May 9, 1917, made bona fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much of tax as is not so permitted to be added to contract price. (T. D. 2719; Art. XXXVII.)

The term "dealer" does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

A foreign government buying or leasing an article for its own use is not a dealer. (T. D. 2719; Art. XXXVII.)

A State or any political subdivision thereof buying or leasing an article for its own use is not a dealer. (T. D. 2719; Art. XXXVII.)

Taxes payable by dealer must be paid to manufacturer at time sale or lease is consummated, and such manufacturer shall collect amount of tax from the dealer and pay same to collector of district in which his principal office or place of business is located. (T. D. 2719; Art. XXXVIII.)

Penalties.

In addition to penalties provided by section 1004 of the act of October 3, 1917, other punishment for failure to comply with law and regulations is prescribed by section 3176 of the Revised Statutes, as amended, and by other sections of the internal revenue laws. (T. D. 2719; Art. XL.)

Pop.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of pop manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells pop is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such pop is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

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Returns.

Each manufacturer, producer, bottler, or importer of beverages enumerated, required to make monthly returns under oath, in duplicate, for district in which his principal place of business is located; returns to be made on Form 726, and to be rendered on or before last day of each month covering transactions of preceding month, first return to cover all transactions since October 3, 1917; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on gross price, may be adjusted in return for month in which price is finally determined; branch houses should in general make reports to parent house which is liable to make monthly returns of sales of branch houses; itinerant manufacturer should make return to collector of district where sales are made. (T. D. 2719; Art. XXXIV.)

Manufacturer of carbonic acid gas must make monthly returns under oath, in duplicate, on Form 726; such returns to be rendered on or before last day of each month, covering transactions of preceding month; first return to cover all transactions since October 3, 1917. (T. D. 2719; Art. XXXVI.)

Manufacturer who has collected amount of tax from dealer required to make monthly returns under oath in duplicate on Form 728 or Form 726. (T. D. 2719; Art. XXXVIII.)

Root beer.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of root beer manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells root beer is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such root beer is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Samples.

Instructions relative to taking samples at brewery, on premises of dealers, at vinegar factories, etc., and assessments for taxes where cereal beverages contain or are suspected of containing one-half of 1 per cent or more of alcohol by volume. (T. D. 2921; Sept. 15, 1919.)

Sarsaparilla.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of sarsaparilla manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells sarsaparilla is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such sarsaparilla is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Soda water.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of soda water manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells soda water is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such soda water is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Temperance beer.

Temporary regulation providing that until further notice brewers having established pipe line for transfer of fermented liquors may set aside and utilize one or more cisterns pertaining thereto for containing liquors containing not to exceed one-half of 1 per cent of alcohol by volume for transfer through the pipe line for sole purpose of bottling, under certain conditions and restrictions; duties of deputy collector in attendance. (T. D. 2359; Sept. 9, 1916.)

Responsibility of brewers, manufacturers of beverages, and dealers who place or market unstamped beverages found to contain more than one-half of 1 per cent of alcohol by volume, stated; duty of revenue agents having reason to suspect that such beverages are placed on market without payment of tax. (T. D. 2370; Sept. 18, 1916. T. D. 2921; Sept. 15, 1919.)

Metal packages, whisky or vinegar barrels, or remodeled beer packages differing in size and shape from the regular statutory packages for containing fermented liquors may be employed to contain temperance beer; regular beer cooperage may be used under certain conditions. (T. D. 2410; Dec. 8, 1916.)

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Uncarbonated beverages.

The tax imposed by section 313 (b) of the act of October 3, 1917, is 1 cent for each gallon of unfermented grape juice, soft drinks, and artificial mineral waters, not carbonated, and fermented liquors containing less than one-half per cent of alcohol, sold by the manufacturer in bottles or other closed containers; tax is none the less payable because tax may have been paid on extracts or prepared sirups entering into manufacture of such soft drinks; manufacturer may be bottler or proprietor of soda fountain. (T. D. 2719; Art. XXXI.)

Carbonated fermented liquors containing less than one-half per cent of alcohol are to be classed as carbonated beverages and not as fermented liquors within meaning of section 313 (b) of the act of October 3, 1917, and are accordingly not directly taxed unless manufactured and sold by the manufacturer, producer, or importer of the carbonic-acid gas used in carbonating them. (T. D. 2719; Art. XXXI.)

Tax imposed by section 313 of act of October 3, 1917, applies to bottled noncarbonated fruit juices, although somewhat concentrated, if as bottled they are reasonably suitable for use as beverages and are so used without addition of water. (T. D. 2932; Oct. 7, 1919.)

Bottled noncarbonated fruit juices, somewhat concentrated, when reasonably suitable for beverage purposes and so used only in a diluted form, are not of themselves soft drinks and are not subject to tax imposed on such drinks by act of October 3, 1917. (T. D. 2932; Oct. 7, 1919.)

Wines—Alcoholic content.

Wines containing more than 24 per centum of absolute alcohol, being classed as distilled spirits by paragraph (a), section 402, act September 8, 1916, production of same for beverage purposes is prohibited by act August 10, 1917, section 15. (T. D. 2748; July 17, 1918.)

BICYCLES.

See "Excise Taxes."

BILLS OF EXCHANGE.

Income tax—Information at source.

Returns of information required regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of corporations, joint-stock companies or associations, and insurance companies; and in case of collection of items (not payable in the United States) of interest upon bonds of foreign countries and interest upon the bonds and dividends on stock of foreign corporations, by persons, corporations, etc., undertaking as matter of business or for profit collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange. (T. D. 2690; art. 35.)

—— Licenses of collecting agents.

All persons, corporations, etc., undertaking as matter of business or for profit, collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by ——— ——— (name of collecting agent.)" (T. D. 2690; art. 48.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of the Secretary of the Treasury, shall prescribe, and to penalties prescribed for failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

Stamp taxes.

The rule that the stamp tax on drafts and checks imposed by Schedule A, of Title VIII, of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to ordinary bills of exchange. (T. D. 2682; Mar. 26, 1918.)

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BILLS OF LADING.

See "Transportation Tax."

Stamp taxes.

Ordinary sight draft with bill of lading attached is not taxable, but draft expressed to be payable at sight "on arrival of car," or containing memorandum to hold until arrival of car, is; sight draft accompanied by instructions outside the instrument, as "Do not present until arrival of car," or some such memorandum, is not taxable. (T. D. 2682; Mar. 26, 1918.)

Because of the constitutional restriction that no tax or duty shall be laid on articles exported from any State, drafts with bills of lading attached covering goods in course of exportation are not subject to the tax. (T. D. 2682; Mar. 26, 1918.)

BILLS RECEIVABLE.

Excess profits tax—"Tangible property."

Bills receivable construed to be "tangible property" within meaning of section 207 of act of October 3, 1917. (T. D. 2694; art. 47.)

BILLIARD BALLS AND TABLES.

Excise taxes.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which tables or balls are sold by the manufacturer. (T. D. 2719; Art. XVII.)

Special taxes.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies, they are not liable to special tax on account of billiard or pool tables or bowling alleys, operated by them. (T. D. 2439; Jan. 27, 1917.)

Billiard tables are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of tables in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

BLENDED WINES.

See "Wines."

BOARDS OF TRADE.

Capital stock tax.

Board of trade not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues.

Tax imposed by section 701 of the act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

Income tax—Exemptions.

Boards of trade are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of boards of trade is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to

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Income tax—Exemptions—Continued.

Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

—— Information at source.

Every person, corporation, partnership, or association, doing business as a broker, or any exchange or board of trade or other similar place of business, shall, upon request of the Commissioner of Internal Revenue, render correct return under oath, showing names of customers for whom such broker has transacted any business, with such details as to profits, losses, or other information as may be called for by such return form as to each of such customers. (T. D. 2690; art. 33.)

Regular documentary stamps, use of.

Instructions as to use of regular documentary stamps pending preparation and distribution of special supply of overprinted stamps, provided to temporarily take place of distinctive colored stamps; requisition; issuance and exchange. (T. D. 2594; Nov. 28, 1917.)

Sales for future delivery—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and canceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Exempt transactions.

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing-house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1918.)

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax imposed by section 807, Schedule A, subdivision 5, act of October 3, 1917, to apply; sale by member of exchange made by mail or wire not at an exchange is not subject to the tax. (T. D. 2795; Feb. 26, 1919.)

—— Memoranda of sales.

Every sale or agreement, not evidenced by memorandum or contract expressly requiring immediate or prompt delivery, shall be deemed to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house acting as agent considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— Records.

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

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Sales for future delivery—Continued.

—— **Registration.**

Regulation No. 40, part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make returns showing specified data and information; substitute returns; clearing houses acting as agents, required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an Assistant Treasurer, or other designated United States depositary; requisitions for stamps; records; kind and color of stamps. (T. D. 2608; Nov. 30, 1917.)

BOATS.

See "Transportation Tax."

Admissions to excursion boats.

Charges of excursion boats providing opportunity for dancing are subject to tax imposed by section 700 of act of October 3, 1917, where such charges exceed the usual or reasonable rates for transportation furnished. (T. D. 2681; Mar. 26, 1918.)

Electric motor boats.

Electric motor boats, within the meaning of Title III of the act of September 8, 1916, are those boats, regardless of size or character of construction, which are propelled by electric power. (T. D. 2384; art. 2.)

Excise taxes.

See "Excise Taxes."

BOATING CLUBS.

Dues.

See "Dues."

BONDS.

Additional taxes—Extending payment.

Form of bond to be executed in duplicate with approved surety company prescribed for extending payment to date not exceeding seven months from passage of act of October 3, 1917, of additional taxes imposed by act. (T. D. 2533; Oct. 6, 1917.) Penal sum of bond fixed at not less than tax due; if tax as shown by return is less than $1,000, penal sum of bond may be less than $1,000. (T. D. 2574; Oct. 31, 1917.)

Collectors authorized to accept in lieu of surety bonds as security for payment of floor taxes covered by section 1002 of act of October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of the taxes due. (T. D. 2537; Oct. 17, 1917.)

Bonds deposited as security must be immediately forwarded to Commissioner of Internal Revenue by registered mail for safe keeping, except where collector's office is in same city as Federal reserve bank, in which case coupon bonds received should be deposited with such bank, which will issue its receipt; disposition of receipts; assignment of registered bonds; insurance of packages. (T. D. 2554; Oct. 25, 1917.)

Collectors authorized to accept certificate of bank or trust company, member of Federal reserve system, sufficiency and solvency of which are satisfactory to collector, to effect that taxpayer has deposited cash or Treasury certificates of indebtedness in full payment of Liberty loan bond subscriptions in name of "Commissioner of Internal Revenue in trust for ——— ———," or in event bond transaction is not consummated taxes will be paid to collector in cash or corporate surety bond

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Additional taxes—Extending payment—Continued.

filed; form of certificate indicated; certificate to be forwarded to Commissioner of Internal Revenue. (T. D. 2554; Oct. 25, 1917.)

Payment of tax shown to be due under section 403 of act of October 3, 1917, may, upon filing of bond, be extended to date not exceeding seven months from passage of such act; bond to be executed in duplicate, with approved surety company, in penal sum of not less than double the tax due and in no case less than $1,000. (T. D. 2556; Oct. 16, 1917.) (But see T. D. 2574 as to penal sum of bond.)

Form of bond with personal surety to be executed in penal sum of not less than tax due and in no case less than $1,000 prescribed; personal surety need not be required to qualify on Form 33 when he is supported by collateral security of a value clearly in excess of amount of tax due. (T. D. 2557; Oct. 27, 1917.)

Payment of additional taxes on account of stamps for payment of tax on cigars, cigarettes, etc., on hand on October 4, 1917, and November 2, 1917, must be made at time manufacturer files return (in case of inventories of Oct. 4, 1917, on or before Nov. 2, 1917, and in case of inventories of Nov. 2, 1917, on or before Dec. 1, 1917), and in no case can this time be extended beyond such dates; no bond for extending payment will be accepted, as in case of additional taxes on stocks in hands of dealers, as the law makes no provision to that effect. (T. D. 2569; Oct. 17, 1917.)

Where Liberty bonds are deposited as security, principal must execute bond in stated form; Liberty bonds deposited and in possession of collector of internal revenue should be surrendered to taxpayer as soon as the tax and interest have been paid; if tax is paid in installments, a proportionate amount of the collateral deposited may be surrendered in the discretion of the collector. (T. D. 2574; Oct. 31, 1917.)

Collectors should use vigilance in collection of taxes and issue distraint warrant wherever necessary; if taxes secured by filing of bond are not paid within time limit, collector should endeavor to collect by distraint. (T. D. 2574; Oct. 31, 1917.)

Bond as security for payment of floor taxes filed before expiration of 10 days after the date of notice and demand for payment should be accepted as security; bond may be accepted after such 10 days if sufficient in amount to cover tax and accrued penalties. (T. D. 2574; Oct. 31, 1917.)

Where collateral other than Liberty bonds is deposited as security, principal must execute bond in stated form, and collector is required to give certain receipt; collateral should be surrendered to taxpayer as soon as tax and interest have been paid; if tax is paid in installments proportionate amount of collateral deposited may be surrendered in discretion of collector. (T. D. 2574; Oct. 31, 1917.)

Returns required by section 1092 of act of October 3, 1917, required to be filed on or before November 2, 1917, time for filing return can not be extended by giving of bond. (T. D. 2584; Nov. 20, 1917.)

Any registered or coupon bonds of the United States may be accepted as security for payment of floor taxes, in accordance with T. D. 2537, T. D. 2554, and T. D. 2557. (T. D. 2606; Dec. 18, 1917.)

Taxpayer may give personal bond with one or more personal sureties, as required by statute, supported by deposit of registered bonds of United States, at face value, equal to penal sum of bond, assigned to "The Commissioner of Internal Revenue"; forms of bonds prescribed in existing regulations may be modified to conform with requirements of this holding; bonds need not be deposited when personal sureties are sufficient, but where bonds are deposited as collateral sureties will not be required to qualify on Form 33; registered bonds deposited to be forwarded to commissioner by registered mail for safe-keeping; upon cancellation of bonds given by taxpayer, bonds forwarded will be reissued in accordance with instructions of taxpayer. (T. D. 2606; Dec. 18, 1917.)

Where satisfactory bonds have not been given for extension of time for making payment, notice and demand should be mailed as provided by section 3184, Revised Statutes, which notice and demand should be served on Form 1-17, and should be followed in order by Form 1-21 and Form 69 within intervals of 10 days of each other; notice where required bonds have been given; penalties; suits on bonds. (T. D. 2648; Jan. 28, 1918.)

Capital stock tax.

Any surplus or undivided profits of a foreign corporation that are invested in United States bonds or other securities having no connection with actual business of corporation transacted in this country may be stated on return, Form 708, under item 3, but should not be included under item 1 as "capital invested in the United States." (T. D. 2467; Mar. 27, 1917.)

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Distilled spirits.

Manufacturers manufacturing vermuth or taxable liqueurs, etc., required, under paragraph (h) of section 402 of the act of September 8, 1916, to execute a tax bond in stated form, and to keep all such taxable articles separate and apart from non-taxable articles; bond to be executed in duplicate with sureties satisfactory to collector in a penal sum at least equal to tax on estimated quantity of articles named remaining on hand at any one time, but in no case less than $5,000; in case of insufficiency new or additional bond will be required by collector. (T. D. 2404; Nov. 27, 1916.)

Execution of new bonds required wherever specific acts of Congress or rates of taxation necessitate such bonds. (T. D. 2525; Sept. 24, 1917.)

Persons, firms, or corporations (except distillers and proprietors of bonded warehouses, making deliveries in original tax-paid packages, who are already required to give bonds) desiring to use or sell or to use and sell distilled spirits for other than beverage purposes, must apply for permit and file bond with corporate surety or with two personal sureties who qualified on Form 33, to be approved by collector; bond with personal sureties, without justification by the sureties on Form 33, may be accepted on certain conditions; single bond authorized where same person or corporation is operating number of drug stores in same city. (T. D. 2559; Oct. 26, 1917. T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Instructions with reference to requiring new bonds in cases where old bonds are inadequate because of increased rates imposed by act of October 3, 1917, upon manufacture and sale of distilled spirits and fermented liquors. (T. D. 2578; Oct. 31, 1917.)

All bonds except Form 432 must be written in penal sum sufficient to cover tax on distilled spirits at rate of $3.20 per gallon where spirits were produced prior to September 9, 1917, and where produced subsequent to such date, penal sum to be based upon tax at rate of $2.20 per gallon; where spirits covered by bond (Form 432) were produced prior to September 9, 1917, penal sum must be in sufficient amount to cover twice the tax at rate of $3.20, and where spirits were produced subsequent to such date, penal sum must be sufficient to cover tax at twice the amount of $2.20 per gallon; in case of losses rate of tax will be $3.20 per gallon in all cases; recital or condition of bond must fix tax to be asserted according to "laws of the United States." (T. D. 2644; Jan. 28, 1918.)

Special instructions regarding cancellation of bonds (Form 738) in cases where it is impossible to surrender the permit or to furnish satisfactory evidence of its destruction. (T. D. 2854; June 3, 1919.)

Bonds covering tax on distilled spirits required to be written in penal sum sufficient to cover tax at rate of $6.40 per gallon on spirits produced prior to September 9, 1917; where spirits produced subsequent to such date, penal sum of bond will be based upon tax at rate of $2.20 per gallon; penal sum of bond Form 432 will be in amount equal to $4.40 per gallon on all alcohol charged under the bond. (T. D. 2821; Apr. 10, 1919.)

Where losses occur from spirits covered by bond, rate of tax to be asserted in connection with such losses will be $6.40 per gallon when bond is written in penal sum measured by that rate of tax; when penal sum of bond covers tax at rate of $2.20 a gallon, assessment on account of losses will be made at that rate, unless it shall appear that spirits or any part thereof were diverted to beverage purposes, or for use in manufacture or production of any article used or intended for use as a beverage, in which event tax will be assessed at rate of $6.40 a gallon. (T. D. 2821; Apr. 10, 1919.)

—— Bottling in bond.

Under section 405 of the act of September 8, 1916, gin of not less than 80 per cent proof may be bottled in bond in bottling warehouse on distillery premises for export at any time within eight years after entry in bond in distillery warehouse; except as herein provided, Regulations No. 23, revised December 21, 1912, and Regulations No. 29, revised August 18, 1914, are made applicable to withdrawal and bottling in bond for export before expiration of four years after entry in bonded distillery warehouse; spirits withdrawn tax paid, and spirits withdrawn for export can not be permitted in bottling warehouse of distillery at same time. (T. D. 2371; Sept. 15, 1916.)

When whisky bottled in bond is found on the market the actual proof of which does not exceed 101°, office of Commissioner of Internal Revenue will not regard such overproof as cause for detention of spirits; when proof of spirits bottled in bond is

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Distilled spirits—Continued.

—— **Bottling in bond**—Continued.

found on market to be over 100.3° facts should be reported to office of Commissioner of Internal Revenue, in order that where deemed necessary an investigation may be made of bottling warehouse where spirits were bottled. (T. D. 2432; Jan. 6, 1917.)

Spirits removed to bottling houses must be immediately bottled, cased, and removed from the premises; one day considered sufficient time within which to bottle contents of each tank, unless distiller is filling bottles less than quart in capacity, in which case time may be extended, but in no case to exceed three consecutive days. (T. D. 2480; Apr. 5, 1917.)

Requirement of article 34, Regulations No. 23, requiring name of domestic port of clearance and port of foreign destination to be marked on cases of distilled spirits bottled in bond for export, waived; distillers, however, required to mark on "Government side" of the cases the words "For export from U. S. A." (T. D. 2486; Apr. 21, 1917.)

Practice of underfilling bottles or using undersized bottles will not be tolerated; where quarts do not vary in capacity more than one-half once from the standard of 32 ounces and other sizes in like proportion, same will not be noticed, but if bottles are found upon either the distillers' premises or the open market uniformly to contain 31½ ounces as to quarts and other sizes in like proportion, and if bottles are found to contain less than 31½ ounces of spirits as to quarts and other sizes in like proportion, such spirits will be subject to seizure; allowance for variation of ½ ounce from standard of 32 ounces will not be made unless there shall be as many bottles running 32½ ounces as there are those that run 31½ ounces as to quarts and other sizes in like proportion. (T. D. 2488; May 9, 1917. T. D. 2498; June 6, 1917.)

Marks and brands imprinted or embossed on a loose sheet to be attached to "Government side" of case permitted, provided that suitable paste or glue is used which will protect the loose sheet after it has been attached to the case from the effects of moisture. (T. D. 2492; May 28, 1917.)

Estate tax.

United States Government bonds must be added to value of estates for purpose of taxation. (T. D. 2449; Feb. 13, 1917.)

Under section 202 of act of September 8, 1916, bonds, both foreign and domestic, owned by nonresident decedents, which bonds are physically situate in the United States, Hawaii or Alaska at the time of the owner's death, must be returned as a portion of the gross estate; where bonds are physically situate outside of the United States, Hawaii, or Alaska, they need not be so returned; bonds owned by residents are taxable, regardless of where situate at time of owner's death. (T. D. 2530; Oct. 4, 1917.)

Circular No. 132, issued under date of January 30, 1919, with reference to receipt of Liberty bonds in payment of estate or inheritance taxes, published. (T. D. 2802; Mar. 12, 1919. See also T. Ds. 2878, 2898, 2904, 2905.)

Excess profits tax—"Tangible property."

Stocks, bonds, bills and accounts receivable, notes and other evidences of indebtedness, and leaseholds, when paid in for stock or shares in corporation or partnership, will be regarded as tangible property so paid in, but when corporation pays for intangible property by the issuance of its own stock or bonds, this will not be regarded as being a payment bona fide made in cash or tangible property within meaning of section 207. (T. D. 2694; art. 47.)

Fermented liquors.

Execution of new bonds required wherever specific acts of Congress or rates of taxation necessitate such bonds. (T. D. 2525; Sept. 24, 1917.)

Instructions with reference to requiring new bonds in cases where old bonds are inadequate because of increased rates imposed by act of October 3, 1917, upon manufacture and sale of fermented liquors. (T. D. 2578; Oct. 31, 1917.)

Floor taxes.

See "Additional taxes," *ante*.

Income taxes—Exemptions.

See "Liberty bonds," *post*.

Section 30 of the act of September 8, 1916, as amended by the act of October 3, 1917, does not exempt from tax any income collected by foreign Governments from investments in the United States in stocks, bonds, or other domestic securities, which are not bona fide owned by but are loaned to such foreign Government. (T. D. 2690; art. 87.)

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Income taxes—Exemptions—Continued.

All interest received on obligations of United States or its possessions or on obligations of a State, or any political subdivision thereof, should be eliminated in ascertaining gross income; accrued interest on bonds purchased must not be included in amount eliminated from gross income; in case of obligations of United States issued after September 1, 1917, income therefrom is exempt from tax only to extent provided in the act authorizing their issue, and incomes from such obligations received by insurance companies is exempt from 2 per cent and 4 per cent tax. (T. D. 2690; art. 239.)

—— **Gross income.**

Interest accrued to time of purchase of bonds (advanced by purchaser) is not to be accounted for as income by purchaser; only amount of interest assignable to portion of interest paid subsequent to purchase has status of income, and amount of accrued interest so advanced by purchaser is taxable income to be accounted for in return of vendor; coupons from bonds for interest thereon, exchanged for other bonds, are equivalent of payment of interest coupons and purchase of new bonds with cash; amount of coupons is to be accounted for as income for calendar year in which exchange is made. (T. D. 2690; art. 4.)

Interest on State, municipal, and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; art. 4.)

Gross income from sources within United States, as applied to foreign corporations, includes interest received on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise. (T. D. 2690; art. 89.)

Interest received on bonds held, whether guaranteed to be tax free or not, must be included in income and must be accounted for in return of annual net income; matter of complying with covenant of bond is matter to be adjusted between debtor corporation and the bondholder. (T. D. 2690; art. 122.)

—— **Information at source.**

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 46.)

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

The term "foreign item," as used in article 35 of Regulations No. 33, revised, means any dividend upon stock of foreign corporation or any item of interest upon bonds of foreign countries or foreign corporations, whether such dividend or interest is paid in the United States or by check drawn on a domestic bank. (T. D. 2759; Oct. 2, 1918.)

The term "foreign corporation," as used in article 35 of Regulations No. 33, revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens, or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign

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Income taxes—Continued.

—— **Information at source**—Continued.

corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate, Form 1071, revised, shall be used for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed by failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed or accompanied by proper ownership certificates, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

—— **Liberty bonds.**

Interest on obligations of United States (but, in case of obligations issued after September 1, 1917, only if and to extent provided in act authorizing issue thereof), or its possessions shall not be included as income. (T. D. 2690; art. 5.)

Income from United States bonds issued under the act of September 24, 1917, is exempt from the war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

When income as such is taxable to beneficiaries, as in case, under present income tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries, each beneficiary is regarded as owner of proportionate part of bonds held in trust, and subscription of trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and entitles him to collateral exemption of interest on bonds of previous issues, whether owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust and the trust is entitled to

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Income taxes—Continued.

—— **Liberty bonds**—Continued.

exemption on account of such ownership; in such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the original subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to individual partners, as under present income tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess profits tax law, partnership is treated as owner of Liberty loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

Corporation, and not stockholders, is regarded as owner of Liberty loan bonds held by a corporation and entitled to exemption on account of such ownership; when bonds of Fourth Liberty Loan are subscribed for by corporation it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762; Oct. 18, 1918.)

—— **Net income.**

Where it is clearly established that debtor corporation has actually withheld and paid to proper officers of the United States the tax on interest on bonds containing tax-free covenant, recipient, having returned such interest as income, may take credit against any tax to which subject on the basis of the return, for tax so paid by debtor corporation. (T. D. 2690; art. 122.)

Discount on bonds issued and sold prior to 1909, if such discount was then charged against surplus or against income of year in which bonds were sold, not deductible from income of subsequent years, for reason that charging off prior to January 1, 1909, of entire amount of discount constitutes closed transaction. (T. D. 2690; art. 149.)

Where bonds were sold subsequent to January 1, 1909, at a discount, and amount of discount was charged off on books, either against earnings or surplus, but not deducted in corporation's return of net income, such discount as was not then deducted may be spread over life of the bonds and an aliquot part of the discount may be deducted from gross income of each year until bonds mature or are redeemed. (T. D. 2690; art. 150.)

Where corporation sells its bonds at discount plus commission for selling, amount of such discount and commission, together with other expenses incidental to issuing bonds, constitute a loss, aggregate amount of which will, for purpose of income-tax return, be prorated over life of bonds sold, and amount thus apportioned to each year will be deductible from gross income of each year until bonds shall have been redeemed. (T. D. 2690; art. 150.)

Where corporation having sold its bonds at discount, discount having been deducted from gross income, later repurchases or redeems the bonds at a price less than par, difference between price at which they are redeemed and their par value will be returned as income; if bonds are sold at premium, premium must be returned as income. (T. D. 2690; art. 150.)

Where corporation, under terms of its indenture, securing issue of bonds is required at certain specified period to purchase and retire certain number of its bonds, and in doing so pays more than par for the bonds, loss sustained is allowable as deduction from gross income for year in which purchase is made, under certain specified conditions. (T. D. 2690; art. 152.)

District irrigation bonds generally are a lien upon real estate affected by irrigation project, and until corporation holding such bonds has taken necessary action to protect its interest and enforce collection of such bonds, corporation will not be

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Income taxes—Continued.

—— Net income—Continued.

allowed to deduct face value or any estimated amount supposed to represent loss or shrinkage in value of such bonds; any estimated shrinkage in value does not constitute loss within meaning of Title I of the act of September 8, 1916, as amended by act of October 3, 1917; so long as value of security is uncertain or unknown loss can not definitely be ascertained and is therefore not deductible. (T. D. 2690; art. 153.)

Where bonds or other forms of indebtedness are issued with guaranty that interest thereon shall be free from taxation as against holder, corporation paying tax pursuant to guaranty will not be permitted to deduct tax so paid, as contract is not binding upon or recognized by Government in determining tax liability of corporation. (T. D. 2690; art. 193.)

—— Withholding.

Form 1000, revised, shall be used when no personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of the United States; by nonresident alien individuals, foreign corporations having no office or place of business in the United States, whether or not such bonds contain a tax-free covenant; and in case where coupons are received not accompanied by certificates of ownership. First bank receiving coupons not accompanied by ownership certificates will make certificate, crossing out "owner" and inserting "payee," and will enter amount of interest on line 4. (T. D. 2690; art. 43.)

Form 1001, revised, shall be used when personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of United States, and when presenting coupons from bonds not containing tax-free covenant; by domestic partnerships, corporations, or associations; by nonresident alien partnerships; and by foreign coporations having office or place of business in United States, whether or not such bonds contain tax-free covenant. In case citizen or resident individual receives interest on bond containing tax-free covenant in excess of amount of personal exemption which individual may claim, any such excess must be reported on Form 1000, revised. (T. D. 2690; art. 43.)

Withholding provisions of sections 9 (b) and (c) of the income tax law apply to normal income tax of citizens and resident aliens, only when derived from interest on bonds and mortgages, deeds of trust, or other similar obligations of corporations, associations, etc., which have a "tax-free covenant clause," regardless of amount and period of payment; on and after January 1, 1918, normal tax of 2 per cent imposed by the act of October 3, 1917, is the tax to be deducted and withheld from citizens or residents of the United States in accordance with section 9 (c). (T. D. 2690; art. 43.)

Withholding will at all times be limited to 2 per cent, except in case of interest on corporate bonds owned by foreign corporations having no office or place of business in the United States, in which case deduction will be at rate of 6 per cent. (T. D. 2690; art. 45.)

Public officers—War tax.

Bonds given by officials of a State, township, county, or village for faithful performance of duties are free from Federal taxation on broad ground that sovereign States and subdivisions thereof are constitutionally free from taxation by Federal Government. (T. D. 2624; Dec. 14, 1917.)

Release of seized property.

In case of seizures of automobiles, horses, and other similar property, collectors instructed to refuse to accept bond under section 3459, Revised Statutes, for release unless property was seized under provisions of section 3453, Revised Statutes, only; where seizure was not made under such section, if property is appraised at $500 or less, collectors will dispose of same promptly under provisions of section 3460, unless bond for costs is given, in which event bond should be forwarded to United States attorney with request to institute libel proceedings; if value exceeds $500, property should be turned over to United States marshal and the attorney requested to institute forfeiture proceedings, no bond for costs being required; question of release of property on bond is within jurisdiction of court. (T. D. 2511; July 12, 1917.)

Replacement fund—Securing income and excess profits taxes.

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

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Stamp taxes.

Indemnity or surety bonds given by trustees in bankruptcy for purpose of qualifying as such are bonds required in legal proceedings and therefore exempt from taxation under Schedule A, act of October 3, 1917. (T. D. 2647; Feb. 2, 1918.)

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

Instruments containing essential features of promissory note but issued by corporations in numbers under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in case of bearer bonds, for authentication by trustee, and sometimes for redemption before maturity or similar provisions, are bonds within meaning of Schedule A of Title VIII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

Instrument under seal conditioned in penal amount for payment of sum of money, such as often accompanies mortgages, is bond within meaning of Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

Bonds of a private corporation delivered by it to the United States Housing Corporation as collateral security for a loan to aid the borrower in performing its contract with the United States Housing Corporation are subject to stamp tax. (T. D. 2782; Dec. 24, 1918.)

Premiums on indemnity or surety bonds executed prior to December 1, 1917, are not the subject of stamp tax when premiums due and payable subsequent to December 1, 1917, are not essential to continuance in force of such bonds; where bonds issued prior to December 1, 1917, are continued in force after December 1, 1917, by the execution of continuation certificates the tax applies to the premium charged for the issuance of such certificates. (T. D. 2782; Dec. 24, 1918.)

Stamp tax imposed on indemnity and surety bonds by paragraph 2 of Schedule A, Title VIII, act of October 3, 1917, applies to indemnity bonds made to the Government to secure issuance of duplicate checks for allotment and allowance or other benefits under the act of October 6, 1917. (T. D. 2795; Feb. 26, 1919.)

So-called business property investment bond, wherein it is certified that the holder thereof is the owner of interest in certain specified real property, legal title to which was previously conveyed to a trustee, and whereby corporation issuing same agrees to manage the property and distribute proceeds in certain manner, is not subject to tax as a certificate of stock. (T. D. 2795; Feb. 26, 1919.)

Wines—Blended wines.

Unstamped wines may be blended on bonded premises but when removed must be stamped according to the alcoholic strength of wine as blended. (T. D. 2387; Oct. 30, 1916.)

Wines are taxable according to their alcoholic strength when placed on the market, but blending on bonded premises of wines of different alcoholic strength is permissible. (T. D. 2387; Oct. 30, 1916.)

—— Carbonated wines.

Carbonated wines can be produced only at the winery or other bonded premises and can not therefore be produced on premises of retail dealer. (T. D. 2387; Oct. 30, 1916.)

The artificially carbonating of still wines on which tax has been paid is not permissible, as such carbonated wines are a distinct product and must be produced on bonded premises. (T. D. 2387; Oct. 30, 1916.)

—— Clarified wines.

Wines returned to bonded premises in stamped packages to be clarified may when clarified be replaced in such stamped packages which should be set apart for that particular purpose; if otherwise recasked the wines will be subject to tax as if originally produced. (T. D. 2387; Oct. 30, 1916.)

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Wines—Continued.

—— Fortification.

Pending revision of regulations fortification of wines permitted to continue under existing regulations and existing form of bond, if consent of signers to bond is obtained. (T. D. 2387; Oct. 30, 1916.)

Form 699A may be executed by wine makers covering tax on brandy used in fortification of wines, transportation of brandy to bonded winery, and its use in fortification. (T. D. 2525; Sept. 24.)

—— Imports.

Bonds securing payment of internal-revenue tax will not be required for imported wines, as such wines remain in custody of customs officers until such tax is paid. (T. D. 2387; Oct. 30, 1916.)

Tax on imported wines being payable on removal of wines from customhouse, such wines can not be transferred to bonded premises established under the wine act. (T. D. 2387; Oct. 30, 1916.)

Imported wines transferred in bond from port of entry to another port will be tax paid on removal from bond at last named port. (T. D. 2387; Oct. 30, 1916.)

—— Makers.

Proprietors of bonded wineries or storerooms who have filed Forms 698 and 699 not required to again file such Forms for each fiscal year unless an increase in their business necessitates a bond of larger penal sum, but they may continue to manufacture wine under their original bond, Form 699, until application for cancellation of same has been made. (T. D. 2516; Aug. 17, 1917.)

Instructions with reference to execution of new wine bonds covering bonded wineries and bonded storerooms; change in Forms 699, 709, and 710; single bond to cover several wineries; duplicates; filing; when bond Form 699A may be used. (T. D. 2525; Sept. 24, 1917.)

All premises where wines are produced for sale or where quantity produced for family use exceeds 200 gallons per year must be bonded; wine makers on failing to bond such premises or to comply with the law and regulations to be reported to United States district attorney for prosecution. (T. D. 2387; Oct. 30, 1916.)

Bonded premises can be established by wine makers and wholesale dealers only. (T. D. 2387; Oct. 30, 1916.)

Wine maker producing not exceeding 1,000 gallons may either file bond, Form 699, or may deposit with collector as security Liberty loan bonds or cash equal to amount of tax; if Liberty loan bonds are deposited, he must execute bond, in duplicate, in stated form, and in such form with appropriate substitutions in case cash is deposited; bond and security must be filed with collector prior to time of crushing grapes. (T. D. 2765; Oct. 21, 1918.)

When Liberty loan bonds or cash are deposited as security by wine maker producing not exceeding 1,000 gallons per year, the collector should give the depositor a receipt in stated form, which receipt should be made in triplicate, one copy being immediately transmitted to Commissioner of Internal Revenue; safekeeping of bonds; assigning of registered bonds; security thus pledged should not be held by collector except upon instructions from Commissioner, and security will be surrendered as soon as tax and accrued penalty and interest have been paid. (T. D. 2765; Oct. 21, 1918.)

—— Untax-paid wines.

Premises of storage companies can not be bonded; untax-paid wines can not therefore be received on such premeises. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers who do not bond their premises and who have untax-paid wines in their possession must make monthly returns under oath as to sale of such wines. (T. D. 2387; Oct. 30, 1916.)

Retail dealers being exempt from giving bond can not receive on their premises untax-paid wines. (T. D. 2387; Oct. 30, 1916.)

Storage on bonded premises of wines on which tax has been paid is not permissible; so much of premises used for storage or treatment of untax-paid wines must be bonded. (T. D. 2387; Oct. 30, 1916.)

Tax on unstamped wines removed from or to premises not bonded should be reported for assessment against shipper of such wines. (T. D. 2387; Oct. 30, 1916.)

Unstamped wines heretofore removed from bonded premises should be at once reported for assessment. (T. D. 2387; Oct. 30, 1916.)

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Wines—Continued.

—— **Wholesale dealers.**

Wholesale dealers who do not bond their premises, and who have untax-paid wines in their possession, must make monthly returns under oath as to sale of such wines. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers are not required to bond their premises, but unless bonded all wines received thereon must be first tax paid. (T. D. 2387; Oct. 30, 1916.)

Withdrawal of alcohol, spirits, etc.

Where domestic wines are to be removed from bonded premises free of tax for exportation, party intending to export same shall file with collector of district in which such premises are located bond in stated form, to be executed in duplicate, one copy to be retained by collector, and one copy to be forwarded to Commissioner of Internal Revenue; penal sum of bond must be at least equal to double amount of tax on estimated quantity of wine to be removed during period of three months and in no case less than $1,000; bond will be continuing bond, and an account will be kept with each bond in which principal will be charged with tax on each lot removed for exportation and will receive credit for each lot concerning which satisfactory proof of exportation is received. (T. D. 2416; Dec. 12, 1916.)

Instructions with reference to withdrawal of alcohol for use in central denaturing warehouses from different distilleries under one bond; requisites of bond; permit; application for regauge and withdrawal; order; storekeeper's duties; certificate of gauger. (T. D. 2630; Jan. 17, 1918.)

Distillers or owners of spirits permitted to execute continuing (blanket) bond, under which spirits may be withdrawn from time to time, in lieu of bond, Form 643, prescribed in Regulations No. 29, for each specified lot of distilled spirits, which bond will be executed in duplicate with satisfactory sureties, and in penal sum sufficient to cover 125 per cent of estimated amount of tax which will at any one time constitute a charge against the bond, and in no case less than $1,000; new or additional bond; credit in bonded-spirits accounts. (T. D. 2495; June 8, 1917.)

In case of shipment of wines free of tax from bonded premises established under section 402 of act of September 8, 1916, to bonded manufacturing warehouse to be manufactured into articles for export, proprietor must execute Form 703, in quadruplicate; on arrival of wines at port of entry manufacturer will report same to collector of customs, who will cause wines to be inspected and gauged and will certify receipt of wines on blue Form 703 returning one blue copy to collector of internal revenue and sending other to commissioner; separate transportation bond covering tax on wines need not be executed; credit given bond (Form 699 or 699A) on receipt of certificate by collector of internal revenue from collector of customs. (T. D. 2738; June 20, 1918.)

Burden is on plaintiff in suit at law to recover tax paid under protest, pursuant to assessment based on alleged transferring, in removing spirits from bond, of portion of contents of barrels containing, respectively, more than requirements of Carlisle allowance to barrels containing, respectively, less than the minimum contents required by Carlisle allowance, to show what part of assessment was wrongful; burden is not met by proof that payment was made in accordance with governmental regauge, nor does added fact of long delay in making assessment overcome its prima facie evidenciary effect. (T. D. 2757; Sept. 5, 1918. Ct. Dec.)

BONUSES.

Income tax—Gross income.

Where common stock is received as bonus in consideration of purchase of preferred stock, entire proceeds derived from sale or transfer of such stock is income subject to normal and additional tax. (T. D. 2690; art. 4.)

—— **Net income.**

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered; if, when added to salaries, they do not exceed reasonable compensation for services, they will be regarded as part of the wage or hire, and therefore an ordinary and necessary expense of operation and maintenance, and as such, will be deductible. (T. D. 2690; arts. 8, 138.)

Gifts or bonuses to officers or employees may be deducted from gross income in ascertaining net income, when made in good faith and as additional compensation for services actually rendered; if, when added to stipulated salaries, they do not exceed reasonable compensation for services rendered, they will be regarded as part of the wage or hire of the officer or employee, and as such will be deductible. (T. D. 2616; Dec. 11, 1917.)

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BOTTLERS.

Definition.

A "bottler" is a producer or any person who puts a liquid in bottles or other closed containers and sells it. (T. D. 2719; Art. XXXIII.)

Excise taxes.

See "Excise Taxes."

BOWLING ALLEYS.

Excise tax on tenpins.

Bowling alley tenpins are "parts of games" within the meaning of section 600(f) of the act of October 3, 1917, and are subject to taxation thereunder. (T. D. 2795; Feb. 26, 1919.)

Special taxes.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys, operated by them. (T. D. 2439; Jan. 27, 1917.)

Bowling alleys are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of bowling alleys in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

BOXING CLUBS.

Dues.

See "Dues."

BRANDS.

See "Marks and Brands."

BRANDY.

See "Distilled Spirits"; "Wines."

BREWERIES.

See "Fermented Liquors."

BROKERS.

Admission tickets.

Ticket brokers required to keep daily records showing tickets sold for each entertainment; proceeds; cost of tickets and tax returnable; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729 and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made; daily record of brokers, with copies of their monthly returns, required to be kept on file for two years, in such manner as to be readily accessible to internal revenue officers. (T. D. 2681; Mar. 26, 1918.)

Ticket brokers required to collect tax on admissions shall, on the 1st day of April, 1918 (and if not on that date engaged in business, then within 10 days after engaging in business), and annually thereafter on the 1st day of July, file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business, or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

Where a broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

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Corporation tax—Interest.

The case of Altheimer and Rawlings Investment Co. *v.* Allen holds that a corporation which did a brokerage business and bought securities for customers who paid only part of the price, paying interest on balances, corporation also paying for securities purchased only part of the price and paying interest on balances, including in return of gross income difference between interest received and interest paid, made incorrect return; interest received by corporation from its customers should be included in gross income and interest paid by the corporation on said purchases is allowable as interest payable on its bonded or other indebtedness; in determining net income interest can be deducted only to an amount not exceeding the paid-up capital stock outstanding at close of the year. (T. D. 2441; Feb. 8, 1917. T. D. 2686; Apr. 1, 1918. Ct. Decs.)

Estate tax—Nonresident decedent.

Brokers holding as collateral securities belonging to nonresident decedent may not release to foreign administrator or executor or foreign beneficiary such securities until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917. See paragraph (5), T. D. 2490; May 14, 1917.)

Excess profits tax.

Agents and brokers requiring and using no capital or merely a nominal capital in their business are taxable under article 15 of Regulations No. 41, but commission houses regularly employing substantial amount of capital, whether to lend to principals or to carry goods on their own account, are not deemed to be agents or brokers and are taxable under provisions of article 16. (T. D. 2694; art. 73.)

Members of a partnership who are paid neither a salary nor commissions for their services, but who buy and sell lumber and undertake and assume all the risks and enjoy all the benefits of a merchandising business, employing a large amount of capital, are not brokers, and do not come within section 209 of the act of October 3, 1917. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Income tax—Commissions.

Commissions paid in purchasing and selling securities are a part of the cost of selling price of the securities and not otherwise deductible; they do not constitute expense deductions. (T. D. 2690; art. 8.)

—— Information at source.

Every person, corporation, partnership, or association doing business as a broker, or any exchange or board of trade or other similar place of business, shall, upon request of the Commissioner of Internal Revenue, render correct return under oath, showing names of customers for whom such broker has transacted any business, with such details as to profits, losses, or other information, as may be called for by such return form as to each of such customers. (T. D. 2690; art. 33.)

Insurance.

Brokers who place risks for clients with insurance companies are not subject to tax under section 504 of act of October 3, 1917, as tax is imposed upon companies issuing the insurance. (T. D. 2588; Nov. 21, 1917.)

Occupational tax.

One who holds himself out as dealing in exchange, and in regular course of business accepts orders and takes them to a bank for execution by the latter, receiving substantial remuneration for his services, is liable to tax as a broker. (T. D. 2785; Jan. 28, 1919.)

A bank which does not hold itself out to the public as engaged in negotiating purchases or sales of stock, bonds, etc., but merely negotiates the purchase and sale thereof for depositors and other patrons, without remuneration and for their accommodation only, does not thereby incur liability to special tax as a broker. (T. D. 2782; Dec. 24, 1918.)

Real estate.

Payments of rent made to real estate agents do not require reports of information. (But agent must report payments to landlord if the same amounts to $800 or more during 1917.) (T. D. 2670; Mar. 11, 1918.)

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Stock brokers—Affixing and canceling stamps on sales.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate of stock; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— **Exempt transactions.**

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to brokers for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memoranda of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Record of sales.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration of sales.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in places of business. (T. D. 2608; Nov. 30, 1917.)

—— **Return of sales.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, and assistant treasurer, or other designated United States depositary; requisitions for stamps; records; kind and color of stamps. (T. D. 2608; Nov. 30, 1917.)

BUILDING AND LOAN ASSOCIATIONS.

Capital stock tax—Exemption.

Tax does not apply to domestic building and loan associations with no capital stock, organized and operated for mutual purposes and without profit. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income tax—Exemptions.

Domestic building and loan associations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns (T. D. 2690; art. 58.)

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Income tax—Exemptions—Continued.

Domestic building and loan association exempt is one organized under and pursuant to laws of United States or of some State or Territory thereof, and which is actually carrying on for benefit of its members a building and loan association business in accordance with such laws; fact that association issues fully paid or prepaid shares, calling for specified rate of interest or dividends, will not disqualify it for exemption; exemption is without qualification other than that association is a domestic building and loan association; if corporation by any other name is carrying on an exclusive building and loan business, before it is entitled to exemption it must show to satisfaction of Commissioner of Internal Revenue that it is in fact a building and loan association. (T. D. 2690; art. 70.)

—— **Gross income.**

Amount credited to shareholders, when title to credit passes to shareholder at time of credit, is subject to normal and additional tax as for year of credit; where amount of such accumulations does not become available until maturity of share amount of share in excess of aggregated amount paid in by shareholder is income to be accounted for as for year of maturity of shares for both normal and additional tax. (T. D. 2690; art. 4.)

BUSINESS.

Definition.

Difference between losses incurred in business or trade and losses in transactions entered into for profit but not connected with business or trade, within meaning of income tax law, is illustrated by difference between definitions of "avocation," that which takes one from his regular calling, and "vocation," the occupation or pursuit to which one devotes his time or life, a calling. It is possible for a man to give sufficient time, attention, and capital to the pursuit of different lines of business to constitute more than one avenue of "business or trade or employment," his business or trade. (T. D. 2690; art. 8.)

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business," as used in war excess profits tax regulations, include all sources of income, and unless otherwise indicated by the context, the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual, the terms "trade," "business," and "trade or business," as used in war excess profits tax regulations, comprehend all his activities for gain, profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation they shall be construed to be a trade or business whether continuously carried on during taxable year or not; unless otherwise indicated by the context, terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 8.)

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

BUSINESS ORGANIZATIONS.

See "Boards of Trade."

Capital stock tax.

Business league not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues.

Tax imposed by section 701 of act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

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Dues—Continued.

Those social facilities afforded by a commercial club which are kept open freely to the public and not limited to members are not sufficient to constitute the club a social club for purposes of the dues tax. (T. D. 2782; Dec. 24, 1918.)

Income tax—Exemptions.

Business leagues are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of business leagues is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

CABARETS.

Admissions—Basis of tax.

Where an adequate fixed charge is made for admission, seats, and tables, the tax of 1 cent for each 10 cents or fraction thereof paid for admission, imposed by section 700 of the act of October 3, 1917, shall be based upon such charge; where a nominal admission not actually covering cost of entertainment is charged, admission being wholly or partly absorbed in price of refreshments and service, such charge will not be accepted as basis of tax. (T. D. 2681; Mar. 26, 1918.)

—— Checks and coupons.

Cabaret proprietors must furnish each guest, upon paying his check, a coupon receipt to be detached therefrom, containing separately in indelible figures the total of the amount paid for refreshments, etc., and the war tax paid thereon; the checks and coupons must be serially numbered. (T. D. 2681; Mar. 26, 1918.)

—— Computation of charge.

Twenty per cent of total amount paid for refreshments, merchandise, service, couvert charge, etc., including any sum paid for seats and tables, at any public performance for profit, to which charge for admission is included in amount so paid, shall be deemed to be paid for admission, unless satisfactory evidence is submitted to Commissioner of Internal Revenue that different percentage should be fixed on basis of which commissioner shall approve different percentage; tax is at rate of 1 cent on each 10 cents or fraction thereof of such 20 per cent of total charge to each patron, and must be paid by person paying for such refreshment, service, etc., and can not be reckoned or paid by proprietor upon monthly gross receipts. (T. D. 2681; Mar. 26, 1918.)

—— Definition.

The words "cabaret or other similar entertainment;" as used in section 700 of the act of October 3, 197, include every hotel, or room therein, restaurant, hall, or other public place, at or in which, in connection with service or sale of food or other refreshments or merchandise, any vaudeville or other performance or diversion in way of acting, singing, declamation, or dancing, either with or without instrumental or other music, is conducted; every form of entertainment so conducted is included, except that furnished by orchestras such as were usual in hotels and restaurants before advent of cabarets, performing instrumental music only, unaccompanied by any other form of entertainment; hotel, restaurant, or hall, affording, in connection with service of refreshment, food, or merchandise, entertainment in form of dancing by its patrons, is included; performance must be public and for profit; where there is entertainment in one dining room and not in an entirely separate dining room of same hotel or restaurant, only admissions to first room are taxable. (T. D. 2681; Mar. 26, 1918.)

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Admissions—Continued.

—— **Payment of tax.**

Tax must be paid by person paying for refreshments, service, merchandise, etc.; it can not be reckoned or paid by proprietor upon monthly gross receipts; tax to be collected only from persons present or who have paid or agreed to pay for accommodations during some period of day at which entertainment is in progress or there is opportunity for public dancing in case of public banquets including dancing. (T. D. 2681; Mar. 26, 1918.)

—— **Returns.**

Cabaret proprietors must furnish each guest, upon paying his check, a coupon receipt to be detached therefrom, containing separately in indelible figures the total of the amount paid for refreshments, etc., and the war tax paid thereon; the checks and coupons must be serially numbered. (T. D. 2681; Mar. 26, 1918.)

Every person, corporation, partnership, or association, receiving any payments for admission to cabarets and other similar entertainments, or admitting any person free where admission is charged, must collect tax on such admissions from persons admitted or making such payments, and make monthly return and payment of collections as provided in section 503. (T. D. 2681; Mar. 26, 1918.)

CALENDAR YEAR.

Basis of computation of tax.

See specific heads.

CAMERAS.

Excise taxes.

See "Excise Taxes."

CANAL ZONE.

See "Panama Canal."

CANDY.

Excise taxes.

See "Excise Taxes."

CANOE CLUBS.

Dues.

See "Dues."

CAPITAL INVESTED.

See "Invested Capital."

Definition.

The words "capital invested," as used in sections 5 and 12 of Title I, act of September 8, 1916, is meant the fair market value of the properties as of March 1, 1913, if acquired prior to that date, or their actual cost if acquired subsequent to that date, as it relates to the owner in fee of the properties leased. (T. D. 2447; Feb. 8, 1917.)

CAPITAL STOCK.

Issue—Stamp tax.

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

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Issue—Stamp tax—Continued.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York banking law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1918.)

Where corporation issues preferred stock in place of common, or one kind of preferred stock in place of another kind of preferred stock, or stock without par value in place of stock with par value, tax imposed by act October 3, 1917, on issue of capital stock applies, even though total outstanding stock is not thereby increased. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock applies to issue of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of certificates representing stock never before issued, no matter when authorized. (T. D. 2752; Aug. 14, 1918.)

Paid-up capital stock.

"Paid-up capital stock," as used in section 38 of the act of August 5, 1909, means such an amount received by the corporation as does not exceed the par value of the outstanding shares, plus amount received for any part-paid stock; such term does not mean the aggregate amount (whether more or less than par value) received by the corporation for the shares, the full-paid stock receipts, and part-paid stock receipts issued by it. (T. D. 2896; July 21, 1919. Ct. Dec.)

Indebtedness upon which interest may be taken as a deduction under the act of August 5, 1909, can not be greater than par value of capital stock paid up and outstanding; in computing paid-up capital stock, a surplus created by paying a premium on capital stock subscribed for can not be added in determining indebtedness upon which interest may be deducted. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

Definition of "paid-up capital stock" by a local State statute is not controlling on a Federal court construing the corporation excise tax act of 1909, which is applicable to all States. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

Transfer—Stamp tax.

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of stock does not attach to exchange of stock certificates of merged corporation for stock certificates of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock, prior to exercise of the right, and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to the same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inappli-

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Transfer—Stamp tax—Continued.

cable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting-trust certificates, to transfer of shares in so-called Massachusetts trusts, and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock is measured. not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

CAPITAL STOCK TAX.

Act published.

Extract from act of September 8, 1916, relating to tax on capital stock, published for information of internal-revenue officers and others concerned. (T. D. 2364; Sept. 11, 1916.)

Basis.

Tax levied by act September 8, 1916, is imposed with respect to the carrying on or doing business by a corporation; it may be described generally as a tax upon doing of business in the capacity of a corporation, joint-stock company, or insurance company; every corporation that is doing business, and no corporation that is not carrying on or doing business, is subject to the tax. (T. D. 2750, art. 4; Aug. 9, 1918.)

—— Foreign corporation.

Tax on foreign corporation is in all cases to be computed on basis of average amount of capital invested in transaction of its business in the United States during the preceding year, except for deduction of legal reserve funds in case of insurance companies; basis of tax is accordingly different from that in case of domestic corporations, which pay tax measured by fair value of their capital stock. (T. D. 2750, art. 14, Appendix B; Aug. 9, 1918.)

Collection.

Tax imposed by act of September 8, 1916, collected by assessment on special list for months of January and July, 1917, and annually thereafter in July, and any delinquent returns made in February or other months may be listed on regular list, Form 23, and collected in usual way; returns listed on special lists to be retained in collector's office, as special list will be prepared so as to give essential data shown by return, and returns listed on regular lists will be forwarded to office of Commissioner with list for audit. (T. D. 2383; Oct. 19, 1916.)

Collectors will accept payment of tax when returns are filed as "advance collections," provided there is no question about the amount of tax due, but corporations are not required to pay the tax until after receipt of notice and demand on Form 17. (T. D. 2417; Dec. 16, 1916. T. D. 2423; Dec. 30, 1916.)

Computation.

Tax is imposed upon every corporation, joint-stock company or association. or insurance company, now or hereafter organized in the United States for profit and having a capital stock represented by shares, computed at the rate of 50 cents for each full $1,000, and not upon any fractional part thereof, of the average fair value of the capital stock for the preceding year in excess of the exemption allowed by law and not upon the face or par value of the capital stock; methods of ascertaining fair value of capital stock, stated; tax is not imposed upon corporations, etc., not engaged in business during preceding taxable year or exempt under provisions of section 11, Title I, of the act of September 8, 1916, or in case of taxable period ended June 30, 1917, not so engaged during the year July 1, 1915, to June 30, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2423; Dec. 30, 1916.)

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Computation—Continued.

Tax is imposed on corporations, joint-stock companies or associations, or insurance companies organized for profit under the laws of any foreign country and engaged in business in the United States, computed at the rate of 50 cents for each full $1,000, and not any fractional part thereof, upon the actual capital invested in the transaction of business in the United States; the basis of taxation is the average amount of capital so invested during preceding year; exemption from amount of capital invested in the United States equal to proportion of $99,000 as the amount so invested bears to the total amount invested in transaction of business in the United States or elsewhere shall be allowed the company or association or insurance company which makes return to the Commissioner of amount of capital invested in business outside of the United States; tax not imposed on corporation, etc., not engaged in business during preceding taxable year, or in case of taxable period ended June 30, 1917, not so engaged during year July 1, 1915, to June 30, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2423; Dec. 30, 1916.)

If corporation was engaged in business for any time, even one day, during preceding fiscal year, July 1, 1915, to June 30, 1916, it is required to file return on Form 707; there is no relation between amount of tax payable and length of time during which corporation was engaged in business. (T. D. 2417; Dec. 16, 1916. T. D. 2423; Dec. 30, 1916.)

The individual fair value of stocks of two banks that have a definite combined market value but no separate market value may be ascertained by apportionment of the market value on the basis of the capital stock, surplus, and undivided profits of each corporation for the fiscal year. (T. D. 2426; Dec. 29, 1916.)

Tax for period July 1, 1917, to June 30, 1918, required to be filed on or before July 31, 1917, is computed on the fair value of the stock of the corporation for the preceding taxable year, which is the fiscal year, July 1, 1916, to June 30, 1917. (T. D. 2503; June 25, 1917.)

If stock of corporation is listed on an exchange or dealt in on New York curb, fair value should be computed under Case I, Form 707, from the highest price bid on the last day of each month, or the last day of the month on which a bid was made; if it prefers, corporation may average fair value throughout entire fiscal year by showing on statement attached to back of return the highest price bid for the stock on each day throughout the year. (T. D. 2503; June 25, 1917.)

If stock is not listed on exchange or New York curb, fair value may be computed from actual sales made during preceding fiscal year under Case II, Form 707; if there are not sufficient sales of stock listed under Case II to establish basis, corporation will be required to fill out Case III, and corporation should set forth amount of net profits earned during preceding five years, as reported on Federal income tax returns, together with average number of shares outstanding each year, average percentage of profits over 5-year period indicating earning capacity, and fair value may then be estimated from such earning capacity. (T. D. 2503; June 25, 1917.)

Capital stock tax imposed by act September 8, 1916, becomes due on 1st day of July in each year, or on commencing any trade or business on which tax is imposed; in former case tax is reckoned for one year, and in latter case it is reckoned proportionately from the first day of the month in which the liability to special tax commenced to 1st day of July following. (T. D. 2750, art. 1; Aug. 9, 1918.)

Tax is not upon par value of capital stock but upon its fair average value for preceding fiscal year ending June 30; fair value of entire capital stock of corporation is not necessarily product of market value of each share multiplied by number of shares; if corporation is doing any business it is taxed on its entire capital stock, even though most of it may not be employed in the business. (T. D. 2750, art. 7; Aug. 9, 1918.)

Capital stock tax is measured by fair value of total capital stock including surplus and undivided profits for year preceding the taxable year, whether conduct of business is profitable or otherwise; for purpose of tax fair value of entire capital stock of going concern, regardless of stock ownership or ability of individual stockholders to liquidate their holdings, is required. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Tax on foreign corporation is in all cases to be computed on basis of average amount of capital invested in transaction of its business in the United States during the preceding year, except for deduction of legal reserve funds in case of insurance companies; basis of tax is accordingly different from that in case of domestic corporations, which pay tax measured by fair value of their capital stock. (T. D. 2750, art. 14, Appendix B; Aug. 9, 1918.)

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Computation—Continued.

——**Deductions.**

No deductions are allowed corporations organized in the United States for capital invested in England, France, and other foreign countries. (T. D. 2417; Dec. 16, 1916.)

No deduction is allowed corporations organized in the United States for capital invested outside the United States; if corporation is doing any business, it is taxed on its entire capital stock, even though most of it may not be employed in the business. (T. D. 2750, art. 7; Aug. 9, 1918.)

From the total fair value of the capital stock the sum of $99,000 is deductible, and the tax is upon each full $1,000 of any balance; accordingly corporations, the fair value of whose capital stock is not more than $99,000, are not subject to tax; however, for purpose of avoiding errors every corporation must file return, even though par value or fair value of its capital stock does not exceed $99,000. (T. D. 2750, art. 9; Aug. 9, 1918.)

The amount, if any, of the munition manufacturer's tax imposed by Title III of the act of September 8, 1916, actually paid by the corporation since making its last previous return is deductible from capital stock tax; if munition manufacturer's tax is due and payable but has not been paid at time capital stock tax becomes due and payable no credit of the munition manufacturer's tax is permissible until after such latter tax has been paid; after its payment the credit may be availed of by a claim for refund of so much of capital stock tax actually paid as is not in excess of the munition manufacturer's tax which became due and payable within the same calendar year. (T. D. 3009; Apr. 22, 1920.)

Credit of payment of munition manufacturer's tax applies alike to foreign corporations and to domestic corporations. (T. D. 2750, art. 16; Aug. 9, 1918.)

From fair value of entire capital stock will be deducted the amount of $99,000, exemption allowed by law, and tax will be assessed upon balance at rate of 50 cents for each full $1,000 of such reminder; only amount of munition manufacturer's tax actually paid since making of last previous return prior to July 1, 1918, is deductible from capital stock tax. (T. D. 2750, Appendix A; Aug. 9, 1918.)

In ascertaining taxable invested capital, exemption for amount of capital invested in United States is allowed equal to such proportion of $99,000 as amount so invested bears to total amount of invested capital of the corporation, but this exemption applies only if corporation makes return of amount of capital invested in transaction of business in the United States and elsewhere, and corporation making no return of capital invested outside the United States, irrespective of size of its capital, is entitled to no deduction. (T. D. 2750, art. 15, Appendix B; Aug. 9, 1918.)

No deduction is allowed in return of a holding corporation for tax paid by a subsidiary. (T. D. 2750, art. 24; Aug. 9, 1918.)

Date due.

Capital stock tax imposed by act September 8, 1916, became effective January 1, 1917, and is to be paid annually in advance for each year beginning July 1, except as to first payment for the six months ending June 30, 1917,; special taxes become due on 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. (T. D. 2750, art. 1; Aug. 9, 1918.)

Definitions—"**Business.**"

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property, and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

—— "**Corporation.**"

The term "corporation" is used in Regulations No. 38 (revised) for convenience to include also "joint-stock company or association," and "insurance company." (T. D. 2750, art. 24; Aug. 9, 1918.)

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Definitions—Continued.

—— **"Organized for profit."**

A corporation is organized for profit, within act September 8, 1916, if its stockholders or members may benefit pecuniarily from its operations. (T. D. 2750, art. 2; Aug. 9, 1918.)

—— **"United States."**

"United States," as used in Regulations No. 38 (revised), includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. (T. D. 2750, art. 24; Aug. 9, 1918.)

Doing business.

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

Corporations organized for purpose of doing business and actually engaged in such activities as buying timberlands and other real estate, leasing property, collecting rents, managing office buildings, making investments of profits, or leasing of lands and collecting royalties, managing wharves, dividing profits, and in some cases investing surplus, are engaged in business within meaning of act September 8, 1916. (T. D. 2750, art. 5; Aug. 9, 1918.)

Corporation engaged in mining, or in owning, developing, and speculating in mineral lands, is doing business; corporation formed to take over miscellaneous stocks, bonds, and other property, to negotiate sale of various items from time to time as opportunity and judgment dictate, and to distribute proceeds from time to time as liquidation is effected, is organized for profit, and while engaged in such liquidation is carrying on business. (T. D. 2750, art. 5; Aug. 9, 1918.)

Holding company whose objects and activities are exclusively restricted to holding the stocks and securities of other corporations, and a corporation all of whose property and business is operated by or in the hands of a receiver or the alien property custodian, are not doing business. (T. D. 2750, art. 6; Aug. 9, 1918.)

Corporation which has discontinued active operations and whose sole purpose and activity is limited to holding title to parcel of real estate subject to long-term lease and to receiving and distributing rents accruing under such lease is not doing business. (T. D. 2750, art. 6; Aug. 9, 1918.)

Mere receipt of income from leased railroad property, which is used in business by lessee and not by lessor, and receipt of interest and dividends from invested funds, bank balances, and the like, and distribution thereof among stockholders of corporation, amount to no more than receiving ordinary fruits that arise from ownership of property, and do not constitute doing business. (T. D. 2750, art. 6; Aug. 9, 1918.)

Exemptions.

Tax does not apply to any corporation not engaged in business during any part of fiscal year preceding year for which tax is due, but if it was in business, even one day, it is subject to the tax; there is no relation between amount of tax payable and length of time corporation was in business. (T. D. 2750, art. 11; Aug. 9, 1918.)

Corporation organized after beginning of taxable year is not subject to tax for remaining portion of year in which organized, but when one corporation succeeds another after beginning of fiscal year, and the old concern, pursuant to agreement between respective organizations during preceding fiscal year, ceases to do business at that time, business being carried on thereafter by new concern, new corporation is liable to tax; tax should not be imposed on any corporation, joint-stock company or association, or insurance company, not engaged in business in United States during fiscal year July 1, 1917, to June 30, 1918. (T. D. 2750, art. 11, Appendix B; Aug. 9, 1918.)

A corporation engaged in business during part of preceding year, but not engaged in business at beginning of taxable year, is not required to make any return if it is dissolved or in process of dissolution, but if it is only temporarily inactive and subsequently during year engages in business, it should file return in month in which it recommences business. (T. D. 2750, art. 11; Aug. 9, 1918.)

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Exemptions—Continued.

—— **Agricultural organizations.**

Agricultural organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Provision of article 2, of Regulations 38, exempting agricultural organizations, only applies to those organizations that are engaged in that business merely for the general welfare and benefit of the public, such as agricultural fairs or exhibitions; a corporation engaged in general farming, raising cattle, or the agricultural business for profit is liable to the tax. (T. D. 2417; Dec. 16, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Beneficiary societies.**

Tax does not apply to fraternal beneficiary society, order, or association, operating under lodge system or for exclusive benefit of members of fraternity itself operating under lodge system, and providing for payment of life, sick, accident, or other benefits to members of such society, order, or association, or their dependents. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Boards of trade.**

Board of trade not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Building and loan associations.**

Building and loan associations operated exclusively for mutual benefit of their members are exempt; issuance of prepaid stock does not destroy mutuality. (T.D. 2383; Oct. 19, 1916. T. D. 2418; Dec. 15, 1916.)

Tax does not apply to domestic building and loan associations with no capital stock organized and operated for mutual purposes and without profit. (T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Business leagues.**

Business league not organized for profit and no part of net income of which inures to the benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug, 9, 1918.)

—— **Cemetery companies.**

Cemetery companies owned and operated exclusively for benefit of its members are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Chambers of commerce.**

Chamber of commerce not organized for profit and no part of net income of which inures to the benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Charitable organizations.**

Corporation or association organized and operated exclusively for charitable purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Civic leagues.**

Civic leagues or organizations not organized for profit, but operated exclusively for promotion of social welfare, are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Commercial clubs.**

Business league, chamber of commerce, or board of trade, not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

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Exemptions—Continued.

—— **Cooperative banks.**

Tax does not apply to cooperative banks with no capital stock organized and operated for mutual purposes and without profit. (T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Educational organizations.**

Corporation or association organized and operated exclusively for educational purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Farmers' organizations.**

Farmers' or other mutual insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of purely local character, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, and associations organized and operated as sales agent for purpose of marketing products of members and turning back to them proceeds of sales less necessary selling expenses on basis of quantity of produce furnished by them, are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.

—— **Federal land banks.**

Federal land banks, as provided in section 26 of act of July 17, 1916, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Foreign corporations.**

Exemption from tax of certain corporations applies to foreign and to domestic corporations. (T. D. 2750, art. 16; Aug. 9, 1918.)

—— **Fraternal beneficiary societies.**

Fraternal beneficiary society, order, or association, operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for payment of life, sick, accident, or other benefits to members of such society, order, or association, or their dependents, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Fruit growers' associations.**

Fruit growers' association organized and operated as sales agent to market product of its members, turning back to them proceeds of sales, less necessary selling expenses, on basis of quantity of produce furnished by them, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Holding companies.**

Corporation or association organized for exclusive purpose of holding title to property, collecting income therefrom, and turning over entire amount thereof, less expenses, to an organization which itself is exempt from tax, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Horticultural organizations.**

Horticultural organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Provision of article 2, of Regulations 38, exempting from tax horticultural organizations only applies to those corporations that are engaged in that business merely for the general welfare and benefit of the public, such as horticultural fairs or exhibitions. (T. D. 2417; Dec. 16, 1916.)

—— **Joint-stock land banks.**

Tax does not apply to joint-stock land banks as to income derived from bonds or debentures of other joint-stock land banks or Federal land bank belonging to such joint-stock land bank. (T. D. 2750, art. 12; Aug. 9, 1918.)

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Exemptions—Continued.

—— Labor organizations.

Labor organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916; T. D. 2750, art. 12; Aug. 9, 1918.)

—— Mutual, etc., companies.

Farmers' or other mutual ditch or irrigation company of purely local character, or mutual hail, cyclone, or fire insurance company, or mutual or cooperative telephone company, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Mutual savings bank not having capital stock represented by shares is specifically exempt from tax under section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Those corporations, joint-stock companies or associations, or insurance companies, which are exempt from income tax under the provisions of section 11, Title I, of the act of September 8, 1916, are made specifically exempt from the capital stock tax under section 407, Title IV, of such act. (T. D. 2383; Oct. 19, 1916.)

Inasmuch as the basis of tax imposed on capital stock by the act of September 8, 1916, is the fair value of the stock of a corporation, mutual insurance companies and other associations not having capital stock represented by shares, will be exempt from tax in the absence of a basis for the computation of the tax. (T. D. 2383; Oct. 19, 1916.)

Cooperative banks without capital stock organized and operated for mutual purposes and without profit are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— National farm-loan associations.

National farm-loan associations, as provided in section 26 of the act of July 17, 1916, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— Religious organizations.

Corporation or association organized and operated exclusively for religious purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— Scientific organizations.

Corporation or association organized and operated exclusively for scientific purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— Social clubs.

Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of net income of which inures to benefit of any private stockholder or member, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Fair value of stock.

Tax is not upon par value of capital stock but upon its fair average value for preceding fiscal year ending June 30; as regards domestic corporations it is on entirely different basis from excess profits tax, which is concerned with invested capital and not with present fair value of the capital; fair value of entire capital stock is not necessarily product of market value of each share multiplied by number of shares. (T. D. 2750, art. 7; Aug. 9, 1918.)

In ascertaining value of capital stock for purpose of tax, such deposits and reserve funds of insurance companies as they are required by law or contract to maintain or hold for protection of or payment to or apportionment among policyholders are to be omitted; aside from such legal reserve funds the capital stock of mutual insurance companies consists of any capital or surplus or contingent reserves invested in real estate and other assets or maintained for the general use of the business. (T. D. 2750, art. 8; Aug. 9, 1918.)

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Fair value of stock—Continued.

Fair value of capital stock is not necessarily the book value or the market value, or even the earning value, although it is often more directly dependent upon the last; it can best be estimated by officers of corporation having special knowledge of its affairs and general knowledge of line of business in which it is engaged; fair value shown by Exhibit C must not be set at a sum less than the reconstructed book value shown by Exhibit A, or market value shown by Exhibit B, unless corporation is materially affected by extraordinary conditions which justify lower figures; commissioner will estimate fair value in cases regarded as involving any understatement or undervaluation; when second assessment is made, no tax collected under such assessment shall be recovered in any suit unless it is proved that return was not false or fraudulent and did not contain any understatement or undervaluation. (T. D. 2750, art. 19; Aug. 9, 1918.)

Tax is measured by fair value of total capital stock, including surplus and undivided profits for year preceding the taxable year, whether conduct of business is profitable or otherwise; fair value of entire capital stock of going concern, regardless of stock ownership or ability of individual stockholders to liquidate their holdings, is required; sales prices for any number of shares of stock less than majority interest are not necessarily indicative of fair value of entire capital stock; capital invested, nature of business, kind of assets (slow or quick turning), good will, franchises, earning capacity, etc., are important factors that affect worth of enterprises and must be given due consideration in arriving at fair value at any given date. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Fair average value of capital stock and tax payable thereon shall be determined in accordance with instructions in Form 707, which provides in Exhibit A for book value of capital stock, in Exhibit B for market value, and in Exhibit C for value based on capitalizing the earnings. (T. D. 2750, art. 18, Appendix A; Aug. 9, 1918.)

Imposition of tax—Domestic corporations, etc.

Section 407 of the act of September 8, 1916, imposes a special excise tax with respect to the carrying on or doing business by corporations, joint-stock companies or associations, or insurance companies organized in the United States for profit, and having a capital stock represented by shares, 50 cents for each $1,000 of the fair value of the capital stock in excess of $99,000, except in certain enumerated instances. (T. D. 2383; Oct. 19, 1916.)

—— "Engaged in business."

If purpose for which corporation was organized was to build and lease property, rents derived from such lease are taxable even though thereby the corporation leases all the property and of necessity goes out of all corporate business excepting the collection and distribution of the rents. (T. D. 2416; Dec. 15, 1916.)

Corporations engaged in mining are subject to the tax. (T. D. 2418; Dec. 15, 1916. T. D. 2457; Mar. 14, 1917.)

Railroad corporation which has leased its property for a term of years and parted with its control and management, but which maintains its corporate organization and collects rentals from lessee company, and distributes same among its stockholders is not engaged in business so as to be liable for tax, notwithstanding lease provides for recovery of property in case of default; this does not apply where corporation is organized for ostensible purpose of building and operating a railroad and leases the road before it is built. (T. D. 2418; Dec. 15, 1916.)

When corporation owning property has gone out of business in connection therewith and disqualified itself from any activity in regard to it there is no liability to tax. (T. D. 2418; Dec. 15, 1916.)

A corporation originally organized for the purpose of owning and renting an office building which leased the property for 130 years and reorganized and practically went out of business, its sole authority being to hold the title subject to the lease and to receive and distribute the rentals accruing thereunder or the proceeds of sale, if the property should be sold, is not liable to tax. (T. D. 2418; Dec. 15, 1916.)

Corporations whose business is principally the holding and management of real estate are actually "engaged in business" so as to be subject to the tax imposed by section 407 of the act of September 8, 1916. (T. D. 2418; Dec. 15, 1916.)

A "holding company," organized in the United States for the purpose of acquiring and holding capital stock of subsidiary companies, and actually engaged in holding such stock, voting thereon, receiving dividends thereon, and distributing money among its own shareholders, is engaged in business within the meaning of act of September 8, 1916, and is subject to special excise tax imposed under section 407,

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Imposition of tax—Continued.

—— **"Engaged in business"**—Continued.

and this applies to all holding companies organized in the United States for profit, even though the subsidiary companies operate exclusively in foreign countries; holding companies required to file returns on Form 707, and will be held strictly liable to penalties imposed for failure to make returns within prescribed time. (T. D. 2429; Jan. 4, 1917.)

—— **Foreign corporations.**

Section 407 of the act of September 8, 1916, imposes a special excise tax with respect to the carrying on or doing business by every corporation, joint-stock company or association, or insurance company, organized for profit under laws of any foreign country and engaged in business in the United States, 50 cents for each $1,000 of the capital actually invested in the transaction of its business in the United States. Certain exemption allowed if total amount invested in United States or elsewhere is stated. (T. D. 2383; Oct. 19, 1916.)

Canadian corporation making news print paper which sends agents into the United States to solicit purchasers for its product, paying their expenses, hiring desk room in the United States, empowering salesmen to make written contracts, in part in the United States, subject to corporation's approval in Canada, and, when approved, to deliver the contracts, paying rent, storage charges on paper shipped into United States, and also for work done, by checks drawn on banks in United States where company keeps its funds received from goods delivered in the United States, and then, to perform its written contracts, shipping paper consigned to itself in the United States to different points where it hired storage rooms to store paper in its own name and at its own risk, pending delivery, is engaged in business and is doing business in United States so as to be subject to the tax imposed by section 407 of the act of September 8, 1916. (T. D. 2418; Dec. 15, 1916.)

The amount of capital invested in transaction of business in United States by foreign insurance companies is the amount of "surplus to policyholders," as shown by convention form of report to State insurance departments; foreign companies are permitted to state amounts of surplus to policyholders as shown by report for last fiscal year, ending December 31, 1916, the only deduction allowed being amount of deposits actually required by States in which company is transacting business. (T. D. 2503; June 25, 1917.)

—— **Insurance companies.**

Tax imposed by act September 8, 1916, applies to insurance companies organized under statute or deriving from that source some quality or benefit not existing at common law, irrespective of whether or not they are organized for profit or have capital stock represented by shares; mutual and participating plan companies are included; and mutual protective associations organized under statute, whose only source of revenue is assessments paid by members and whose net income for each year is paid into reserve fund constituting sole resource of company, aside from current assessments, for payment of losses, is insurance company within meaning of statute. (T. D. 2750, art. 3; Aug. 9, 1918.)

In ascertaining value of capital stock for purpose of tax such deposits and reserve funds of insurance companies as they are required by law or contract to maintain or hold for protection of or payment to or apportionment among policyholders are to be omitted; aside from such legal reserve funds the capital stock of mutual insurance companies consists of any capital or surplus or contingent reserves invested in real estate and other assets or maintained for the general use of the business. (T. D. 2750, art. 8; Aug. 9, 1918.)

Tax is payable by every corporation, joint-stock company or association, or insurance company, now or hereafter organized for profit under laws of any foreign country and engaged in business in the United States; in general, same kinds of companies and associations are included as in case of domestic corporations, except that to be taxable they must be organized under some statute or derive from that source some quality or benefit not existing at the common law; foreign corporation is engaged in business in United States if it maintains agents or an office or warehouse here, or, in case of insurance company, writes insurance policies here, or in any other way enters the United States for purpose of its business. (T. D. 2750, art. 13, Appendix B; Aug. 9, 1918.)

Tax on foreign corporation is in all cases to be computed on basis of average amount of capital invested in transaction of its business in the United States during the preceding year, except for the deduction of legal reserve funds in case of insurance companies; basis of tax is accordingly different from that in case of domestic

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Imposition of tax—Continued.

—— **Insurance companies**—Continued.

corporations, which pay tax measured by fair value of their capital stock. (T. D. 2750, art. 14, Appendix B; Aug. 9, 1918.)

Insurance companies organized under statute, engaged in business at any time during preceding year July 1, 1917, to June 30, 1918, and not specifically exempt under section 11, Title I, act September 8, 1916, must file return; mutual and participating plan insurance companies are included. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Every insurance company, now or hereafter organized for profit under the laws of any foreign country and engaged in business in the United States, shall be liable to special excise tax of 50 cents for each full $1,000 (less the proportion of $99,000 as amount of capital invested in United States bears to total amount invested in transaction of business in the United States or elsewhere) of capital invested in transaction of its business in the United States, except such companies and associations as are specifically exempt under section 11, Title I, act September 8, 1916. (T. D. 2750, Appendix B; Aug. 9, 1918.)

—— **Joint-stock companies or associations.**

Tax imposed by act September 8, 1916, applies to every joint-stock company or association now or hereafter organized in the United States for profit and having capital stock represented by shares, irrespective of whether it is creature of statute or of contract; joint-stock associations not organized under the statute and so-called Massachusetts trusts are subject to the tax. (T. D. 2750, art. 2; Aug. 9, 1918.)

Every joint-stock company or association engaged in business at any time during preceding year July 1, 1917, to June 30, 1918, and not specifically exempt under section 11, Title I, act September 8, 1916, must file returns; joint-stock associations not organized under the statute are subject to the tax. (T. D. 2750, Appendixes A, B; Aug. 9, 1918.)

So-called Massachusetts trusts are subject to tax imposed by act September 8, 1916. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

—— **Limited partnership.**

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

Limited partnerships of the New York type, having practically no characteristics of a corporation or joint-stock company except limited liability as to some of the partners, are not within scope of tax imposed by act September 8, 1916. (T. D. 2750, art. 2; Aug. 9, 1918.)

Pennsylvania partnerships with limited liability and similar so-called limited partnerships or partnership associations, having perpetual succession and capable of taking title to real estate and suing in common name, are subject to tax imposed by act September 8, 1916, although they may not issue stock certificates to evidence the shares of the members. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

—— **Trusts.**

The capital stock tax is imposed only on such corporations and associations as are organized under some statute or derive from that source some quality or benefit not existing at the common law; trusts which do not derive any benefit from, and are not organized under, statutory laws, not having perpetual succession but ending with lives in being and 20 years thereafter, are not subject to tax. (T. D. 2418; Dec. 15, 1916.)

Nature.

Tax is an excise tax on privilege of doing business similar to occupational taxes imposed on individuals except that in case of a flat tax the amount of tax is measured by the average value of the stock during the preceding year. (T. D. 2423; Dec. 30, 1916.)

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Payment—Advance.

The capital stock tax, being a privilege or occupational tax, is payable in advance for period from time act went into effect to end of fiscal year, and annually thereafter in July, the beginning of the governmental fiscal year; tax was payable to collector at any time after January 1, 1917. (T. D. 2423; Dec. 30, 1916.)

Capital stock tax imposed by act September 8, 1916, became effective January 1, 1917, and is to be paid annually in advance for each year beginning July 1, except as to first payment for six months ending June 30, 1917; the tax due July 1, 1918, is an excise tax payable in advance for privilege of doing business from July 1, 1918, to June 30, 1919. (T. D. 2750, art. 1, Appendixes A, B; Aug. 9, 1918.)

—— Demand.

Collector shall within 10 days after receiving any list of taxes from Commissioner, give notice to each corporation liable to pay any tax stated therein, to be left at his place of business or to be sent by mail, stating the amount of such tax and demanding payment thereof; collector may accept payment of tax when return is filed as an "advance collection," subject to any adjustment later found necessary, but no corporation is required to pay tax until after notice and demand. (T. D. 2750, art. 23, Appendixes A, B; Aug. 9, 1918.)

—— Notice.

Collector shall within 10 days after receiving any list of taxes from Commissioner, give notice to each corporation liable to pay any tax stated therein, to be left at his place of business or to be sent by mail, stating the amount of such tax and demanding payment thereof; collector may accept payment of tax when return is filed as an "advance collection," subject to any adjustment later found necessary, but no corporation is required to pay tax until after notice and demand. (T. D. 2750, art. 23, Appendixes A, B; Aug. 9, 1918.)

—— Time.

Tax is payable to collector at any time after July 1, 1918; if corporation does not pay tax within 10 days after service or sending by mail of notice, collector shall collect tax with penalty of 5 per cent additional on amount of tax and interest at rate of 1 per cent a month; collector has no authority to extend time for payment, and any extension granted would be at collector's risk; collector may accept payment of tax when return is filed as an "advance collection," subject to any adjustment later found necessary, but no corporation is required to pay tax until after notice and demand. (T. D. 2750, art. 23, Appendixes A, B; Aug. 9, 1918.)

Penalties.

Every company or association subject to special tax under section 407 of the act of September 8, 1916, which fails to make returns during months of January, 1917, and July, 1917, and annually in July thereafter, is liable to penalties imposed by section 3176, Revised Statutes, as amended by section 1600 of September 8, 1916; in addition to such penalty a specific penalty is provided by section 408 of the act of September 8, 1916; upon failure to pay tax within 10 days after notice and demand, penalty of 5 per cent of tax unpaid and interest at rate of 1 per cent per month until paid shall be added to amount of such tax. (T. D. 2383; Oct. 19, 1916. T. D. 2423; Dec. 30, 1916.)

The 50 per cent penalty for delinquency in filing returns as well as the specific penalty imposed by section 408 of the act of September 8, 1916, on corporations for attempting to do business without payment of special tax will be strictly enforced against corporations that fail to file returns within the time prescribed by law or by the collector. (T. D. 2503; June 25, 1917.)

Punishment for violation of law.

Every corporation which does business without having paid tax shall be deemed guilty of misdemeanor and upon conviction thereof shall pay fine of not more than $500; in addition to punishment specified where corporation fails to make and file return within time prescribed, there shall be added to the tax 50 per cent of its amount; in case of false or fraudulent return, willfully made, there shall be added to the tax 100 per cent of its amount; where corporation does not pay tax within 10 days after service or sending of notice, penalty of 5 per cent additional upon amount of tax and interest at rate of 1 per cent a month shall be added. (T. D. 2750, arts. 17, 22, 23, Appendix B; Aug. 9, 1918.)

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Rate—Domestic corporations.

The tax is at the rate of 50 cents for each full $1,000 of the fair value of the capital stock of a corporation, in estimating which surplus and undivided profits shall be included. (T. D. 2750, art. 7; Aug. 9, 1918.)

—— Foreign corporations.

Tax is at the rate of 50 cents for each full $1,000 of the capital of the foreign corporation actually invested in transaction of its business in the United States. (T. D. 2750, art. 14, Appendix B; Aug. 9, 1918.)

Refund.

No tax is refundable if corporation ceases to do business during the year. (T. D. 2750, art. 1; Aug. 9, 1918.)

Commissioner of Internal Revenue will estimate fair value of capital stock in cases regarded as involving any understatement or undervaluation; when second assessment is made in case of any return which in opinion of collector was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that return was not false or fraudulent and did not contain any understatement or undervaluation. (T. D. 2750, art. 19; Aug. 9, 1918.)

Returns.

Tax which became effective January 1, 1917, was payable in January, 1917, on returns to be made during that month for the six months ending June 30, 1917; in July, 1917, and annually in July thereafter, returns required to be made and tax paid for ensuing fiscal year. (T. D. 2383; Oct. 19, 1916.)

Every corporation, joint-stock company or association, or insurance company, organized in the United States for profit and having a capital stock issued and outstanding represented by shares of market value of $75,000 or over and which are not exempt, required to make return, setting forth specific data, on Form 707, irrespective of par value of the capital stock, unless such corporation, etc., was not engaged in business during the preceding taxable year, which for the return due January 1, 1917, was the fiscal year July 1, 1915, to June 30, 1916. (T. D. 2383; Oct. 19, 1916.)

Suggestions as to estimating fair value of stock under Cases II and III of article 4, item (6), on Form 707. (T. D. 2423; Dec. 30, 1916.)

Every corporation, joint-stock company or association, or insurance company organized for profit under the laws of any foreign country and engaged in business in the United States, required to make return, containing specified data, on Form 708, irrespective of amount of capital employed either at home or in this country in the transaction of its business. (T. D. 2383; Oct. 19, 1916.)

Suggestions made with regard to supplying information required on Form 707, and errors noted in printing such form. (T. D. 2417; Dec. 16, 1916.)

Capital stock that has once been issued by a corporation is regarded as being "outstanding," even though it is afterwards acquired by the company for value, and carried on the books as treasury stock. (T. D. 2417; Dec. 16, 1916.)

Provision in Regulations 38 requiring every United States corporation having capital stock outstanding of market or fair value of $75,000 or over to file return on Form 707, even though fair value of its capital stock does not exceed $99,000, exemption allowed by law, was for purpose of leaving final determination of question of tax liability of company for the collector or the Commissioner of Internal Revenue. (T. D. 2417; Dec. 16, 1916.)

Fact that corporation has a net income of a sum less than that specified by section 407 of the act of September 8, 1916, does not exempt it from making return to the collector of the district in which the corporation has its principal place of business. (T. D. 2418; Dec. 15, 1916.)

The fair value of the stock of subsidiary companies may be computed by apportionment of the fair value of total capital stock of the holding company among the various subsidiaries; the basis of apportionment is the total amount of net profits earned by the subsidiaries plus amount of net profits earned by parent company from actual operations and investments or holdings of stock in other companies. (T. D. 2423; Dec. 30, 1916. T. D. 2493; May 22, 1917. T. D. 2509; July 7, 1917.)

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Returns—Continued.

Corporations in hands of receivers not required to make return on Form 707 unless receivership terminates before close of taxable period, nor will corporations operating under their corporate management but which were in hands of receivers during preceding taxable (fiscal) year be required to file return. (T. D. 2424; Dec. 30, 1916.)

Any surplus or undivided profits of a foreign corporation that are invested in United States bonds or other securities having no connection with actual business of corporation transacted in this country may be stated on return, Form 708, under item 3, but should not be included under item 1 as "capital invested in the United States." (T. D. 2467; Mar. 27, 1917.)

Corporations that have no regular earnings, and those that have earned no profits in past five years, or have only been engaged in business one or two years, are permitted to file detailed statement attached to back of return, showing their assets and liabilities outstanding on June 30, 1917, or at end of their last fiscal year, and may estimate fair value of stock from the book value. (T. D. 2503; June 25, 1917.)

Form 707 requires under items 4, 5, and 6, the figures shown on books of corporation on June 30, 1917, but if corporation prefers it may state figures shown on books at close of last fiscal year, such as December 31, 1916. (T. D. 2503; June 25, 1917.)

Holding companies and subsidiary corporations are both required to file returns and pay tax, and no deductions are allowable on return of holding corporation for tax paid by a subsidiary. (T. D. 2503; June 25, 1917.)

If corporation has increased or decreased capital stock during fiscal year, statement should be attached to back of return, Form 707, setting forth number of shares of stock outstanding each month, with average fair value of the stock for that month, computed under one of the three cases. (T. D. 2503; June 25, 1917.)

Domestic insurance companies are not permitted to deduct reserves or deposits maintained or held in the United States for the protection of, or payment to, or apportionment among, policy holders, as such reserves and deposits are reflected in the fair value of the stock as computed under Cases I, II, and III, Form 707. (T. D. 2503; June 25, 1917.)

Every corporation, joint-stock company or association liable to tax and engaged in business at any time during preceding year July 1, 1917, to June 30, 1918, and not specifically exempt under section 11, Title I, act September 8, 1916, must file return. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Every domestic corporation shall make return on Form 707, regardless of par value of its capital stock; fair average value of capital stock and tax payable thereon shall be determined in accordance with instructions in form, which provides in Exhibit A for book value of capital stock, in Exhibit B for market value, and in Exhibit C for value based on capitalizing the earnings; all information called for must be given in every case where it is procurable. (T. D. 2750, art. 18, Appendix A; Aug. 9, 1918.)

Where corporation fails to make and file return at time prescribed, collector shall make return from his own knowledge and from such information as he can obtain through testimony or otherwise; any return so made by collector shall be prima facie good and sufficient for all legal purposes; if failure to file return is due to sickness or absence, collector may allow such further time, not exceeding 30 days, for making and filing return, as he deems proper. (T. D. 2750, art. 21, Appendixes A, B; Aug. 9, 1918.)

Where return is not made and filed within time prescribed, Commissioner shall add to tax 50 per cent of its amount, except that where return is voluntarily and without notice from collector filed after such time and it is shown that failure to file was due to reasonable cause and not to willful neglect, no such addition shall be made to the tax; amount so added shall be collected at same time and in same manner and as part of the tax, unless tax has been paid before discovery of the neglect, in which case amount so added shall be collected in same manner as the tax. (T. D. 2750, art. 22, Appendixes A, B; Aug. 9, 1918.)

Where false or fraudulent return is willfully made, Commissioner shall add to tax 100 per cent of its amount, and amount so added shall be collected at same time and in same manner and as part of tax, unless tax has been paid before discovery of the falsity or fraud, in which case amount so added shall be collected in same manner as the tax. (T. D. 2750, art. 22, Appendixes A, B; Aug. 9, 1918.)

Where corporation willfully or otherwise makes false or fraudulent return, collector shall make return from his own knowledge and from such information as he

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Returns—Continued.

can obtain through testimony or otherwise, and any return so made shall be prima facie good and sufficient for all legal purposes. (T. D. 2750, art. 21, Appendixes A, B; Aug. 9, 1918.)

Every foreign corporation shall make return on Form 708, irrespective of amount of capital employed either at home or in this country in transaction of its business; manner of determining capital actually invested in transaction of business in United States and tax payable thereon, stated; return not required where corporation or association was not engaged in business in United States during preceding fiscal year July 1, 1917, to June 30, 1918, or is specifically exempt under section 11, Title I, act September 8, 1916. (T. D. 2750, art. 20, Appendix B; Aug. 9, 1918.)

Commissioner of Internal Revenue will estimate fair value of capital stock in cases regarded as involving any understatement or undervaluation; when second assessment is made in case of any return which, in opinion of collector, was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that return was not false or fraudulent and did not contain any understatement or undervaluation. (T. D. 2750, art. 19; Aug. 9, 1918.)

Returns must be signed by two officers of the corporation—that is, by the president, vice president or other principal officer, and by the treasurer or other financial officer; name of corporation and names of officers signing return should be plainly written or printed on the return. (T. D. 2750, Appendix A; Aug. 9, 1918.)

So-called subsidiary corporations, all or part of stock of which is owned by another corporation, must render returns in same way as other corporations. (T. D. 2750, art. 24; Aug. 9, 1918.)

Every corporation liable to tax shall on or before 31st day of July in each year make return, verified by oath, to collector of district where located. (T. D. 2750, art. 21, Appendixes A, B; Aug. 9, 1918.)

Returns must be verified by two officers of the corporation—that is, by the president, vice president, or other principal officer, and by the Treasurer or other financial officer, and must be sworn to before an officer authorized to administer oaths, and seal of attesting officer, if he is required to have a seal, must be impressed on the return. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Returns must be signed and verified by agent or attorney or other principal officer in charge of United States branch of foreign corporation and must be sworn to before an officer authorized to administer oaths, and seal of attesting officer, if he is required to have a seal, must be impressed on return in space provided for that purpose. (T. D. 2750, Appendix B; Aug. 9, 1918.)

Scope.

Tax applies to every corporation, joint-stock company or association (except insurance companies), now or hereafter organized in United States for profit and having capital stock represented by shares, irrespective of whether it is creature of statute or of contract. (T. D. 2750, art. 2; Aug. 9, 1918.)

Insurance companies organized under statute, engaged in business at any time during preceding year July 1, 1917, to June 30, 1918, and not specifically exempt under section 11, Title I, act September 8, 1916, must file return; mutual and participating plan insurance companies are included. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Tax imposed by act September 8, 1916, applies to insurance companies organized under statute or deriving from that source some quality or benefit not existing at common law, irrespective of whether or not they are organized for profit or have capital stock represented by shares; mutual and participating plan companies are included, and mutual protective association organized under statute, whose only source of revenue is assessments paid by members and whose net income for each year is paid into reserve fund constituting sole resource of company, aside from current assessments, for payment of losses, is insurance company within meaning of statute. (T. D. 2750, art. 3; Aug. 9, 1918.)

Tax is payable by every corporation, joint-stock company or association, or insurance company, now or hereafter organized for profit under laws of any foreign country and engaged in business in the United States; in general, same kinds of companies and associations are included as in case of domestic corporations, except that to be taxable they must be organized under some statute or derive from that source some quality or benefit not existing at the common law; foreign corporation is engaged in business in United States if it maintains agents or an office or ware-

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Scope—Continued.

house here, or, in case of insurance company, writes insurance policies here, or in any other way enters the United States for purpose of its business. (T. D. 2750, art. 13, Appendix B; Aug. 9, 1918.)

Subsidiary corporations.

So-called subsidiary corporations, all or part of stock of which is owned by another corporation, must render returns in same way as other corporations; no deduction is allowed in return of holding corporation for tax paid by a subsidiary. (T. D. 2750, art. 24; Aug. 9, 1918.)

CARBONATED BEVERAGES AND WATERS.

See "Beverages."

CARBONATED WINES.

See "Wines."

CARBONIC ACID GAS.

See "Carbonated Beverages and Waters."

CARDS.

Playing cards.

See "Playing Cards."

CARNIVALS.

Admissions.

See "Admissions."

CARRIERS.

See "Railroads"; "Transportation"; "Transportation Tax."

Definition.

The word "carrier," as used in Title V of the act of October 3, 1917, means every person, corporation, partnership, or association who or which, for hire, furnishes any of the transportation services or facilities described or referred to in subdivisions (a), (b), (c), and (d) of section 500; person, corporation, etc., engaged in logging, manufacturing, mining, or any other business, furnishing any of the services referred to in such subdivisions, for hire, for account of any other person, corporation, etc., is a carrier within the meaning of Title V. (T. D. 2676; Mar. 18. 1918.)

Excise tax on boats.

Imposition of transportation tax for persons transported by boat is not conclusive that the boat is used for trade; if boat is used to carry freight for hire, it is not subject to the tax; if used to carry passengers, the distinction is between its operation in general commerce, as from New York to Boston, and its operation for plainly pleasure purposes, as from New York to Coney Island. (T. D. 2753; Aug. 23, 1918.)

Boats used for pleasure, whether of the owner or of paying patron, or for serious activities not constituting trade, are subject to tax imposed by section 603 of act October 3, 1917; boats operated for profit to carry passengers on pleasure trips to and from certain fishing grounds are not used for trade, but for pleasure, and are subject to the tax. (T. D. 2753; Aug. 23, 1918.)

CASUALTY INSURANCE.

See "Insurance."

CEMETERY COMPANIES.

Capital stock tax.

Cemetery companies owned and operated exclusively for benefit of its members are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

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Income tax—Exemption.

Cemetery companies are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Cemetery company having capital stock represented by shares, or which is operated for profit or for benefit of others than its members, is not exempt. (T. D. 2690; art. 71.)

In case of cemetery company having capital stock represented by shares, or which is operated for profit or for benefit of others than its members, reserve set aside out of profits as "maintenance fund" is not deductible from gross income, and any accretions to such fund will be held to be income, and, as such, must be returned by the corporation; expenses of maintenance will be deductible as paid. (T. D. 2690; art. 71.)

Exemption from filing returns and paying income tax of cemetery companies is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

—— **Gross income.**

Any accretions to reserve set aside out of profits of cemetery company as a "maintenance fund" will be held to be income, and, as such, must be returned by the corporation. (T. D. 2690; art. 71.)

CEREALS.

See "Distilled Spirits"; "Fermented Liquors"; "Wines."

CERTIFICATES OF DEPOSIT.

Stamp tax.

Certificates of deposit are not taxed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

CERTIFICATES OF INDEBTEDNESS.

Acceptance for income and excess profits taxes.

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand"; schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from March 15 to June 25, 1918. (T. D. 2680, Mar. 23, 1913.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of

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Acceptance for income and excess profits taxes—Continued.

income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of tax series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located, and must be forwarded by registered mail; until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

Unmatured coupons attached to certificates of indebtedness of tax series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid"; coupons maturing on or before date tax is due must be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

Definition.

Certificates of indebtedness is ordinarily any instrument acknowledging liability for payment of money not in recognized form of a promissory note or bill of exchange. (T. D. 2713; May 14, 1918.)

Exemptions from taxes.

Holders of Liberty bonds, Treasury certificates of indebtedness, and war savings certificates, authorized by act of September 24, 1917, are entitled to exemption from all income and war excess profits taxes upon interest received on principal amount, not to exceed $5,000 face value of such obligations; immaterial whether 4 per cent Liberty bonds were issued to holder in exchange for Liberty bonds of first series, or Treasury certificates of indebtedness, or whether issued upon new subscription, exemption is upon income from $5,000 face value of obligations issued by authority of said act of September 24, 1917. (T. D. 2585; Nov. 8, 1917.)

CERTIFICATES OF OWNERSHIP.

Income taxes—Forms.

Banks and collecting agents, debtor corporations, and withholding agents, authorized to accept, until June 1, 1918, certificates of ownership on old forms when properly executed. (T. D. 2702; Apr. 18, 1918.)

—— Information at source.

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 43.)

Original ownership certificates accompanied by monthly list returns, in case of interest on bonds of domestic or resident corporations, when filed with Commissioner of Internal Revenue, shall constitute and be treated as returns of information. (T. D. 2690; art. 35.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate, Form 1071, revised, shall be used for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

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Income taxes—Continued.

—— **Information at source**—Continued.

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

—— **Transmittal.**

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals of foreign corporations, having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed or accompanied by proper ownership certificates, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

—— **Withholding.**

Form 1000, revised, shall be used when no personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of the United States; by nonresident alien individuals, foreign corporations having no office or place of business in the United States, whether or not such bonds contain a tax-free covenant; and in case where coupons are received not accompanied by certificates of ownership. First bank receiving coupons not accompanied by ownership certificates will make certificate, crossing out "owner" and inserting "payee," and will enter amount of interest on line 4. (T. D. 2690; art. 43.)

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CERTIFICATES OF STOCK.

Stamp taxes.

Tax imposed by act October 3, 1917, on issue of capital stock, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of captial stock applies to issue of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of certificates representing stock never before issued, no matter when authorized. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock, does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of voting-trust certificates. (T. D. 2752; Aug. 14, 1918.)

A stock certificate is a document which is evidence of the number of shares of stock which the holder of it owns, and the stamp tax is laid not on each stock certificate that is issued but on each original issue of certificates. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

A corporation engaged in organization is deemed to issue stock when it obtains subscription for it. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

Issue of certificates of preferred or no par value stock in lieu of outstanding certificates of common stock, or vice versa, is not an original issue of stock. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

So-called business property investment bond, wherein it is certified that the holder thereof is the owner of interest in certain specified real property, legal title to which was previously conveyed to a trustee, and whereby corporation issuing same agrees to manage the property and distribute proceeds in certain manner, is not subject to tax as a certificate of stock. (T. D. 2795; Feb. 26, 1919.)

Sale by Alien Property Custodian of shares or certificates of stock, under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, his agreement so to sell, and his transfer of legal title to certificates or shares so sold, are not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Transfer to Alien Property Custodian of shares or certificates of stock in compliance with demand made by him under the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

CHAMBERS OF COMMERCE.

See "Boards of Trade."

Capital stock tax.

Chamber of commerce not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383, Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues.

Tax imposed by section 701 of act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

Dues paid for membership privileges in chamber of commerce or other primarily commercial organization are taxable if privileges include clubhouse facilities such as are afforded by ordinary city social club. (T. D. 2795; Feb. 26, 1919.)

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Income tax—Exemption.

Chambers of commerce are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of chambers of commerce is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

CHAMPAGNE.

See "Wines."

CHARGED OFF.

Definition.

The phrase "charged off," as used in the second paragraph under section 12 of Title I, of act of September 8, 1916, contemplates that the reasonable allowance deducted from gross incomes on account of depreciation or depletion shall be credited to proper reserve accounts and carried as a liability against the assets, to the end that when the total of these credits equals the capital investment account, no further deductions on these accounts will be allowed. (T. D. 2481; Apr. 10, 1917.)

CHARITABLE ORGANIZATIONS.

Admissions to entertainments.

Where proceeds of admissions inure exclusively to benefit of charitable institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling; admissions to any entertainment for charity are taxable if funds are administered by any persons or organization other than religious, educational, or charitable institutions, societies, or organizations. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization, claiming exemption from collecting tax on admissions by reason of being charitable, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Payments for admissions to dances given by home guard to raise money for uniforms and other expenses are not exempt from admissions tax. (T. D. 2782; Dec. 24, 1918.)

Capital stock tax.

Corporation or association organized and operated exclusively for charitable purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Excess profits tax—Gifts.

Contributions or gifts for religious, charitable, etc., purposes allowed as deduction for purposes of income tax under paragraph ninth of subdivision (a) of section 5 of the act of September 8, 1916, as amended, may, subject to limitations therein contained, be deducted in computing net income of trade or business only when shown

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Excess profits tax—Gifts—Continued.

to satisfaction of Commissioner of Internal Revenue that such contributions or gifts are made from trade or business, and not by individual in his personal capacity. (T. D. 2694; art. 37.)

Income tax—Exemptions.

Corporations or associations organized and operated exclusively for charitable purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of corporations or associations organized and operating exclusively for charitable purposes is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

—— Net income.

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Special taxes—Billiard tables, etc.

Occupation tax levied by act of September 8, 1916, is applicable to pool or billiard tables and bowling alleys in charitable institutions. (T. D. 2462; Feb. 16, 1917.)

CHARITABLE PURPOSES.

Income taxes—Deduction of contributions to charity.

In determining amount of net income of taxable year "remaining undistributed" six months after its close, and not "invested and employed in the business," there may be subtracted the amount of contributions properly made for charitable or war purposes. (T. D. 2763; Oct. 21, 1918.)

Moving-picture films—Excise taxes.

There is not exemption from tax imposed by section 600 of the act of October 3, 1917, in the case of films used exclusively for educational, charitable, or religious purposes. (T. D. 2719; Art. XII.)

CHAUTAUQUAS.

Admissions tax.

When a Chautauqua bureau presents a Chautauqua under the usual form of agreement with a local body by which latter subscribes for season tickets and receives them to resell to the public, the admissions tax is payable on (1) amount paid by local body to the bureau, regardless of number of tickets not resold or not used, on (2) any excess received by local body from resale of tickets over the amounts so paid by it, and also on (3) all admissions other than by tickets so sold to the local body. (T. D. 2782; Dec. 24, 1918.)

Special tax.

Statement of matters involved in case of Redpath Lyceum Bureau *v.* Pickering, in order that decision holding that the Redpath Co. is not a lecture lyceum within eighth subdivision of section 3, of the act of October 22, 1914, may be properly understood. (T. D. 2448; Feb. 14, 1917.)

Exemption of lecture lyceums under clause 8, of section 3, of the act of October 22, 1914, does not apply to lecture lyceum bureau which is proprietor of shows or exhibitions. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

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CHECKS.

Income taxes—Information at source.

Returns of information required regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of corporations, joint-stock companies or associations, and insurance companies; and in case of collection of items (not payable in the United States) of interest upon bonds of foreign countries and interest upon the bonds and dividends on stock of foreign corporations, by persons, corporations, etc., undertaking as matter of business or for profit collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange. (T. D. 2690; art. 35.)

—— Licenses of collecting agents.

All persons, corporations, etc., undertaking as matter of business or for profit, collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by —— —— (name of collecting agent)." (T. D. 2690; art. 48. See T. D. 2759: Oct. 2, 1919.)

—— Payment—Bad checks.

Taxpayers whose checks have been returned uncollected by depositary bank should be immediately notified to make checks good; if taxpayer fails to do so, collector should proceed to collect taxes by usual methods, as though no check had been given. (T. D. 2666; Mar. 8, 1918.)

In cases where checks have been returned uncollected by depositary banks, if recapitulation of assessment list for the month has not yet been sent to the Commissioner, original entry of payment should be canceled, and at the same time there should be noted in the "Remarks" column "Check returned unpaid; transferred to p. —, l —," with the date, and the item should be reentered in the unpaid section of the list, with the notation "Transferred from p. —, l —." There should be submitted in support of the new entry a copy of the collector's letter to the taxpayer with regard to the nonpayment of the check; if monthly recapitulation has gone forward, note should be made in the "Remarks" column, opposite the original entry, "Check returned unpaid," with the date. (T. D. 2666; Mar. 8, 1918.)

Where check for which certificate of deposit to credit of Treasurer of the United States has been issued is returned to depositary bank unpaid, collector will be promptly notified and check held for few days, during which time collector should make effort to recover amount from taxpayer; if amount is recovered, collector should immediately turn it over to depositary in exchange for bad check, which should be returned to the drawer, but if amount is not recovered within reasonable time depositary will return check with letter of transmittal and ask receipt from collector, which receipt should be given in duplicate, and depositary will charge amount to Treasurer's account in next daily transcript. (T. D. 2666; Mar. 8, 1918.)

Where check deposited in collection account is returned unpaid, and no certificate of deposit on Form 15 covering the amount thereof has been issued, amount of check will be charged by depositary to the collection account, after being held in a suspense account for a few days while an effort is made to recover amount from taxpayer. (T. D. 2666; Mar. 8, 1918.)

—— —— Collection at par.

All checks in payment of income taxes must be collectible at par (without any deduction); taxpayers who are not sure that their checks will be paid at par should be advised to write beneath the amount "without deduction for exchange," or "with exchange"; collector not required to examine all checks to see whether they are collectible at par; if bank on which check is drawn refuses to pay it at par, it will be returned through depositary bank, and should be treated in same manner as a bad check. (T. D. 2666; Mar. 8, 1918.)

—— —— Monthly and quarterly accounts.

Instructions with reference to preparation of monthly and quarterly accounts in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; Mar. 8, 1918.)

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Income tax—Continued.

—— **Payment**—Continued.

—— —— **Out-of-town checks.**

All out-of-town checks for which depositary bank is unwilling to issue immediate certificate of deposit to credit of Treasurer of United States, should be deposited separately in collection account, as provided in T. D. 2627; collection account will be charged and Treasurer's general account credited by issuance of certificate of deposit on Form 15. (T. D. 2666; Mar. 8, 1918.)

—— —— **Posting records.**

Instructions with reference to posting records 1 and 9 in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; Mar. 8, 1918.)

—— —— **Uncertified checks.**

If uncertified check, accepted by collector, is not paid, person by whom it has been tendered remains liable for tax; such uncertified checks as depositary bank is willing to accept should be included in certificate of deposit issued to collector; all other certificates will be carried by collector as "cash on hand"; date on which collector receives check considered date on which payment is made unless check is returned dishonored; such uncertified checks as bank is not willing to accept for immediate credit may be deposited for collection, and when collection is made proceeds should be immediately deposited with other collections for the day, collector charging his account "cash on hand," and crediting taxpayer from whom check was received. (T. D. 2627; Dec. 28, 1917.)

Payment of taxes—Collection and deposit.

Department Circular No. 144, issued under date of May 20, 1919, with reference to collection and deposit of checks received in payment of internal-revenue taxes, published for information of internal-revenue officers and others concerned. (T. D. 2846; May 24, 1919.)

Stamp tax.

The stamp tax on checks imposed by Schedule A, of Title VIII, of the act of October 3, 1917, attaches to checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand. (T. D. 2682; Mar. 26, 1918.)

CHECKERS.

Excise taxes.

See "Excise Taxes."

CHEMICAL LABORATORIES.

Definition.

The term "chemical laboratory," as used in section 3297, Revised Statutes, includes any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol withdrawn from bond is used purely for scientific purposes. (T. D. 1971; Apr. 20, 1914. T. D. 2496; May 31, 1917.)

CHEMISTS.

See "Pharmacists."

CHESS.

Excise taxes.

See "Excise Taxes."

CHEWING GUM.

Excise taxes.

See "Excise Taxes."

CHILDREN.

Admissions.

Tax imposed by section 700 of the act of October 3, 1917, on the admission of children under 12 years of age, must be collected in all cases at the full rate of 1 cent for each 10 cents or fraction thereof, except where distinctive tickets are issued for

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Admissions—Continued.

children under 12 years, or tickets for their use are indelibly stamped to show that they are good only for the admission of children under 12 years, or where, in absence of tickets, tax is paid at time of admission of children under 12 years; children under 12 years of age when admitted free are not taxable. (T. D. 2681; Mar. 26, 1918.)

Children under 12 years of age when admitted free are not taxable under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Excise taxes—Toys and games.

Tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which the sporting goods and games enumerated, except children's toys and games, are sold by the manufacturer. (T. D. 2719; Art. XVII.)

Income taxes—Deduction of allowances.

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not allowable deductions in return of income, nor are they income to the children. (T. D. 2690; art. 8.)

—— Exemptions.

Exemption of $200 for each dependent child provided by section 7 of act of September 8, 1916, as amended, is given in respect of income tax, and is, therefore, applicable under both the act of September 8, 1916, as amended, and the act of October 3, 1917, under same conditions of fact. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed guardian, and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax, in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

CIDER.

Beverage tax.

Sweet apple cider is taxed under section 313 (b) of act of October 3, 1917, if it contains less than one-half per cent of alcohol and no added sugar. (T. D. 2719; Art. XXXI.)

Wine.

Apple cider or other fruit juice, fermented naturally or artificially, if sold as wine, is taxable as wine. (T. D. 2387; Oct. 30, 1916.)

CIGARS.

Boxes—Labels.

Labels provided for by section 400 of act of October 3, 1917, to be affixed to each box of cigars weighing more than 3 pounds per thousand, shall not be less than 1 inch long nor less than three-fourths of an inch wide and shall be affixed to front of box or container, and contain following legend: "The contents of this box have been tax paid as cigars of Class ——, as indicated by the internal-revenue stamp affixed." In each such label class shall be indicated by letter, corresponding with approved class as shown by table. Provision effective on and after November 2, 1917. (T. D. 2569; Oct. 17, 1917.)

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Boxes—Labels—Continued.

Legend may be printed or stamped directly on front of box, but must be clear and distinct; dimensions of label may be reduced in case of wooden boxes containing 25 or less cigars, and also small packages not made from wood, on which it may be printed as part of other printing thereon; each such label on small packages not made from wood, known as package goods, should be perfectly legible and should appear in conspicuous place. (T. D. 2595; Nov. 22, 1917.)

Cases—Excise taxes.

Cigar cases, when intended to be carried on the person, and made wholly or in part from gold, silver, or platinum, or having the appearance thereof, are deemed to be jewelry within section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XIV.)

Cutters—Excise taxes.

Cigar cutters, when intended to be carried on the person and made wholly or in part from gold, silver, or platinum, or having the appearance thereof, are deemed to be jewelry within section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XIV.)

Floor tax.

Tax-paid manufactured cigars in excess of specified quantity held for sale on October 4, 1917, as well as contents of broken packages and goods in transit on such date, required to be inventoried and returned for assessment of tax provided for by section 403 of the act of October 3, 1917; dealers and others required to pay tax must make return on Form 416C, in duplicate, under oath, on or before November 2, 1917; payment of tax required at time of filing return, but may, upon filing of bond, be extended to date not exceeding seven months from passage of act of October 3, 1917; principal office or place of business to make return where two or more stores are operated by same dealer. (T. D. 2556; Oct. 16, 1917.)

Stocks of cigars, tobacco, and cigarettes held for sale at close of business, October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Manufacturers—Books and returns.

Instruction requiring Form 277, revised, to be used exclusively for return for registry of manufacturers of cigars, when such occupation is not subject to special taxes. (T. D. 2485; Apr. 24, 1917.)

Instructions with reference to entries to be made in books and monthly returns on November 2, 1917, when full increased taxes became effective. (T. D. 2569; Oct. 17, 1917.)

—— Inventories.

Instructions with reference to making inventory required by sections 3358, 3390, Revised Statutes; no claim of failure to make true inventory—in which certain tobacco was not included—submitted in response to notice to show cause against assessment for omitted tax on apparent deficiencies shown in examination of manufacturer's account, will be entertained; verification of inventories by deputy collectors. (T. D. 2390; Nov. 4, 1916.)

Instructions with reference to inventories required to be filed January 1, 1918, and verification thereof by collectors of internal revenue or their deputies; further duties of deputy collectors stated. (T. D. 2583; Nov. 17, 1917.)

Manufacturers of tobacco, snuff, cigars, and cigarettes required to make inventories in accordance with sections 3358, 3390, Revised Statutes, such inventory to be made before commencement of business of January 1, 1919; tobacco of each class, and stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco, snuff, cigars, and cigarettes, of the several classes, should be weighed separately; inventory must include unstemmed tobacco stored off bonded factory premises and also the attached and unattached stamps; tobacco material in factory required to be segregated according to classification; tobacco dust, sweepings, etc., must be inventoried as "waste"; weight and marks of each unopened package, etc., required to be listed on back of inventory form; record of quantity of tobacco used from date of inventory to date of deputy collector's visit required to be kept; inventory must be verified early as practicable after January 1, 1919; duties of deputy collectors enumerated. (T. D. 2777; Dec. 11, 1918.)

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Manufacturers—Continued.

—— **Inventories**—Continued.

Inventories prepared in accordance with sections 3358 and 3390, Revised Statutes, required to be filed before commencement of business on January 1, 1920; weighing; inventory of attached and unattached stamps required; segregation of tobacco material in factory; tobacco dust, sweepings, etc., to be inventoried as "waste"; listing of weight and marks of unopened packages, etc.; verification; duties of deputy collectors. (T. D. 2955; Nov. 29, 1919.)

A corporation carrying on business as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, will be required to have the monthly reports and inventories signed and sworn to by a duly authorized officer or agent of the corporation and to file the monthly reports within the prescribed time with the collector of the district in which the factory or dealer's place of business is located. (T. D. 3073; Sept. 27, 1920.)

An officer's authority to sign and make oath to a corporation's monthly reports and inventories, unless specifically given in the charter or by-laws, must be conferred by a resolution in due course of the board of directors. In case of such resolution, a certificate thereof in duplicate, executed by the president and attested by the secretary, should be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the commissioner. (T. D. 3073; Sept. 27, 1920.)

Whenever it is not possible or convenient for an officer of a corporation to sign and swear to its monthly reports and inventories as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, an agent may be authorized to execute them and may bind the corporation as fully as an officer, under the following conditions:

A resolution in due course of the board of directors should appoint and authorize the superintendent or manager of the factory or leaf establishment, identifying both the individual and the factory or leaf establishment, to execute the monthly reports and inventories required of the corporation, and provide further that the power of attorney so created shall continue in full force until written notice of the revocation thereof is given to the collector of the district thereby affected. A certificate in duplicate of such resolution, executed by the president and attested by the secretary, should then be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. Such certificate will constitute authority for the collector, until he has actual notice of the recall of the power, to accept monthly reports and inventories executed by such agent. (T. D. 3073; Sept. 27, 1920.)

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on January 1, 1921. Each manufacturer should observe carefully the following instructions:

(1) The inventory must be made before the commencement of business on January 1, 1921. After it is completed the correct totals should be immediately entered on the blank form which will be furnished to each manufacturer by the collector of the district in which his factory is located.

(2) All stamped, as well as unstamped, manufactured plug, twist, fine cut, and smoking tobacco, snuff, cigars, and cigarettes of the several classes must be separately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

(3) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form, and weighed separately.

(4) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently described to aid the deputy collector in verifying the inventory. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "waste" only, and by quasi manufacturers of tobacco under separate heads, each properly described.

(6) An accurate record of the quantity of tobacco of each class used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of tobacco of each class which was on hand on the inventory date. (T. D. 3099; Dec. 10, 1920.)

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Manufacturers—Continued.

—— **Inventories**—Continued.

Each inventory shall be verified by a deputy collector at the earliest practicable date after January 1, 1921. Each deputy should be directed, in determining the correctness of the figures shown in the inventory, to take into account the quantity of tobacco of each different kind sold and used on the one hand and purchased on the other hand between the time of his visit and the taking of the inventory. The deputy should require any necessary amendment to be made before permitting oath to be taken and should observe the instructions in Regulations No. 8 (revised July 1, 1910), page 60, under the head of "Deficiences found by examining officers." Any deficiencies which may be discovered should be reported immediately. (T. D. 3099; Dec. 10, 1920.)

—— **Removal or withdrawal of tobacco.**

See "Withdrawal for use of United States," *post.*

New form of special permit, Form 688, adopted to take place of Record 100 for issue to manufacturers of cigars and tobacco applying therefor, authorizing removal of certain kinds of tobacco from bonded factory premises for sale or transfer to another factory or for return to leaf dealer; instructions as to contents of application for permit, filing of application, etc. (T. D. 2422; Dec. 28, 1916.) See T. D. 2957; Dec. 16, 1919.

Printed Form 712, application of manufacturers of cigars and tobacco for permits to remove tobacco, etc., from factories for transfer to another manufacturer or return to dealer in leaf tobacco, adopted; manufacturer of tobacco and cigars required to be instructed that applications for permits to remove tobacco, etc., must be made on such form, and that it must be legibly and accurately filled in, and that in case unstemmed or stemmed leaf tobacco or stems are shipped or delivered to dealer in leaf tobacco, the abbreviation "D. L. T." should be indicated in proper place in the application. (T. D. 2478; Apr. 9, 1917.) See T. D. 2957; Dec. 16, 1919.

Instructions with reference to supplying manufacturers of cigars with revised Form 556, application for withdrawal for export. (T. D. 2521; Sept. 1, 1917.)

Rates of tax.

Taxes imposed by sections 400 to 403 of the act of October 3, 1917, removed from factory or customhouse for consumption or use on and after October 4, 1917, and November 2, 1917, according to their several classifications, shown by table. (T. D. 2569; Oct. 17, 1917.)

Retail price—Determination of tax.

The ordinary retail price of a single cigar is the actual retail price in all cases at which cigars are sold singly; manner of determining the ordinary retail price of a single cigar in case of cigars which are manufactured or imported to retail at the rate of 3 for 10 cents or 10 for 35 cents, and which are practically never sold in any other manner stated. (T. D. 2645; Jan. 17, 1918.) Determination of price where the box in which the cigars come is the unit of sale. (T. D. 2569; Oct. 17, 1917.)

Where retail price of cigars is different in different parts of the country, tax imposed by subdivisions (b), (c), (d), and (e) of section 400 of the act of October 3, 1917, is to be based on the retail price at which the cigars are retailed in the section of the country where the principal market for them is at the time of sale. (T. D. 2577; Nov. 13, 1917.)

Stamps—Cancellation.

Stamps required by section 400 of the act of October 3, 1917, must be affixed in such manner as to seal the package and shall be canceled by the manufacturer writing or imprinting on each stamp his factory number, the number of the district and state, and date of cancellation to include month and year; in case of importer of small cigars or cigarettes the stamps shall be canceled by the owner or importer writing or imprinting upon same his name and date of cancellation to include month and year. (T. D. 2569; Oct. 17, 1917.)

—— **Inventory and return.**

All attached and unattached stamps for payment of tax on cigars held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in

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Stamps—Continued.

—— **Inventory and return**—Continued.

transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

—— **Orders.**

Forms of orders for stamps, revised, standardized as to size, printed in different colors, required to be used as soon as supply is forwarded to collectors and distributed by them to manufacturers. (T. D. 2411; Dec. 12, 1916.)

Instructions with reference to use by manufacturer of revised Form 168, orders for stamps for cigars. (T. D. 2664; Dec. 12, 1917.)

—— **Sale.**

Stamps for tax payment on imported cigars to be sold only to owners, consignees, or importers on requisition of proper customhouse officer; stamp order Forms 168, 172, 173, and 485 restricted to use of manufacturers in the United States; Regulations No. 8, revised July 1, 1910, page 62, amended to provide that when cigars imported in the mails are for delivery at places other than where examined by customs officers and are forwarded to the postmaster who notifies the addressee, furnishing him with Customs Catalogue No. 3493, which is forwarded to postmaster with the package, necessary stamps shall be procured from and sold by the nearest collector of internal revenue. (T. D. 2500; June 15, 1917.)

Time when act effective.

Section 400 of the act of October 3, 1917, levying a tax upon cigars, took effect on November 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Withdrawal for use of United States—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district, and State, the number of original or statutory packages and contents of each shall be set forth in each application, as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner; application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

—— **Bills of lading.**

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located, bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the other shall be forwarded immediately with letter of transmittal to the Commissioner. (T. D. 2982; Jan. 22, 1920.)

—— **Bond for transportation and delivery.**

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State, from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33 executed in duplicate, and the duplicate form to be attached to the duplicate bond;

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Withdrawal for use of United States—Continued.

—— **Bond for transportation and delivery**—Continued.

the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

—— **Certificate of receipt by Government officer.**

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within thirty days of date of withdrawal; where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— **Collector's account; credit on bond.**

The bond covering the total quantity of product requisitioned will be credited in the office of the Commissioner, to whom the collector will forward the original certificate of receipt immediately after it is received by him. (T. D. 2982; Jan. 22, 1920.)

—— **Departmental requisition.**

Whenever cigars are purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

—— **Entries in manufacturer's records and reports.**

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— **Labeling or branding.**

Each individual package of tobacco manufacture shall be labeled or branded "For the use of U. S. Government," together with number of permit and the date thereof, the letters and figures of such printing to be conspicuous, in bold-face type, of not less than one-fourth of an inch in height. (T. D. 2982; Jan. 22, 1920.)

—— **Permit.**

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else request should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax, and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

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CIGARETTES.

Cases—Excise tax.

Cigarette cases, when intended to be carried on the person, and made wholly or in part from gold, silver, or platinum, or having the appearance thereof, are deemed to be jewelry within section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XIV.)

Floor tax.

Tax-paid manufactured cigarettes in excess of specified quantity held for sale on October 4, 1917, as well as contents of broken packages and goods in transit on such date, required to be inventoried and returned for assessment of tax provided for by section 403 of the act of October 3, 1917; dealers and others required to pay tax must make return on Form 416C, in duplicate, under oath, on or before November 2, 1917; payment of tax required at time of filing return, but may upon filing of bond be extended to date not exceeding seven months from passage of act of October 3, 1917; principal office or place of business to make return where two or more stores are operated by same dealer. (T. D. 2556; Oct. 16, 1917.)

Stocks of cigars, tobacco, and cigarettes held for sale at close of business, October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Manufacturers—Books and returns.

Instructions with reference to entries to be made in books and monthly returns on November 2, 1917, when full increased taxes became effective. (T. D. 2569; Oct. 17, 1917.)

—— Inventories.

Instructions with reference to inventories required to be filed January 1, 1918, and verification thereof by collectors of internal revenue or their deputies; further duties of deputy collectors stated. (T. D. 2583; Nov. 17, 1917.)

Manufacturers of tobacco, snuff, cigars, and cigarettes required to make inventories in accordance with sections 3358, 3390, Revised Statutes, such inventory to be made before commencement of business of January 1, 1919; tobacco of each class, and stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco, snuff, cigars, and cigarettes, of the several classes, should be weighed separately; inventory must include unstemmed tobacco stored off bonded factory premises and also the attached and unattached stamps; tobacco material in factory required to be segregated according to classification; tobacco dust, sweepings, etc., must be inventoried as "waste"; weight and marks of each unopened package, etc., required to be listed on back of inventory form; record of quantity of tobacco used from date of inventory to date of deputy collector's visit required to be kept; inventory must be verified early as practicable after January 1, 1919; duties of deputy collectors enumerated. (T. D. 2777; Dec. 11, 1918.)

Inventories prepared in accordance with sections 3358 and 3390, Revised Statutes, required to be filed before commencement of business on January 1, 1920; weighing; inventory of attached and unattached stamps required; segregation of tobacco material in factory; tobacco dust, sweepings, etc., to be inventoried as "waste"; listing of weight and marks of unopened packages, etc.; verification; duties of deputy collectors. (T. D. 2955; Nov. 29, 1919.)

A corporation carrying on business as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, will be required to have the monthly reports and inventories signed and sworn to by a duly authorized officer or agent of the corporation and to file the monthly reports within the prescribed time with the collector of the district in which the factory or dealer's place of business is located. (T. D. 3073; Sept. 27, 1920.)

An officer's authority to sign and make oath to a corporation's monthly reports and inventories, unless specifically given in the charter or by-laws, must be conferred by a resolution in due course of the board of directors. In case of such resolution, a certificate thereof in duplicate, executed by the president and attested by the secretary, should be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the commissioner. (T. D. 3073; Sept. 27, 1920.)

Whenever it is not possible or convenient for an officer of a corporation to sign and swear to its monthly reports and inventories as a manufacturer of tobacco, snuff,

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Manufacturers—Continued.

—— **Inventories**—Continued.

cigars, or cigarettes, or as a dealer in leaf tobacco, an agent may be authorized to execute them and may bind the corporation as fully as an officer, under the following conditions:

A resolution in due course of the board of directors should appoint and authorize the superintendent or manager of the factory or leaf establishment, identifying both the individual and the factory or leaf establishment, to execute the monthly reports and inventories required of the corporation, and provide further that the power of attorney so created shall continue in full force until written notice of the revocation thereof is given to the collector of the district thereby affected. A certificate in duplicate of such resolution, executed by the president and attested by the secretary, should then be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the commissioner. Such certificate will constitute authority for the collector, until he has actual notice of the recall of the power, to accept monthly reports and inventories executed by such agent. (T. D. 3073; Sept. 27, 1920.)

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on January 1, 1921. Each manufacturer should observe carefully the following instructions:

(1) The inventory must be made before the commencement of business on January 1, 1921. After it is completed the correct totals should be immediately entered on the blank form which will be furnished to each manufacturer by the collector of the district in which his factory is located.

(2) All stamped, as well as unstamped, manufactured plug, twist, fine cut, and smoking tobacco, snuff, cigars, and cigarettes of the several classes must be separately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

(3) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form, and weighed separately.

(4) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently described to aid the deputy collector in verifying the inventory. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "waste" only, and by quasi manufacturers of tobacco under separate heads, each properly desribed.

(6) An accurate record of the quantity of tobacco of each class used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of tobacco of each class which was on hand on the inventory date. (T. D. 3099; Dec. 10, 1920.)

Each inventory shall be verified by a deputy collector at the earliest practicable date after January 1, 1921. Each deputy should be directed, in determining the correctness of the figures shown in the inventory, to take into account the quantity of tobacco of each different kind sold and used on the one hand and purchased on the other hand between the time of his visit and the taking of the inventory. The deputy should require any necessary amendment to be made before permitting oath to be taken and should observe the instructions in Regulations No. 8 (revised July 1, 1910), page 60, under the head of "Deficiencies found by examining officers." Any deficiencies which may be discovered should be reported immediately. (T. D. 3099; Dec. 10, 1920.)

—— **Withdrawal of tobacco for export.**

Instructions with reference to supplying manufacturers of cigarettes with revised Form 550, application for withdrawal for export. (T. D. 2521; Sept. 1, 1917.)

Paper and tubes—Accrual of tax.

Taxes imposed by section 404 of act of October 3, 1917, effective on November 2, 1917, accrue upon removal of packages, books, sets, or tubes from the place where they are made in the United States, or, if they are imported, upon withdrawal from customhouse for consumption or use. (T. D. 2552; Oct. 22, 1917.)

—— **Catarrh and asthma remedies.**

Closed-end tubes, used in the preparation of catarrh and asthma remedies, are not taxable as "cigarette tubes." (T. D. 2570; Nov. 6, 1917.)

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Paper and tubes—Continued.

—— **Exemptions from tax.**

Cigarette papers, made up into packages, books, or sets, containing not more than 25 papers, and also cigarette tubes delivered to a duly registered manufacturer of cigarettes under stated conditions, are exempt from tax. (T. D. 2552; Oct. 22, 1917.)

—— **Exports.**

No provision is made by law for the exportation without the payment of tax of cigarette papers in packages, books, or sets, or of cigarette tubes. (T. D. 2552; Oct. 22, 1917.)

—— **Imports.**

When cigarette paper made up into packages, books, or sets, or cigarette tubes are imported, the customs consumption entry or withdrawal for consumption entry shall be prepared in triplicate and show in detail number of packages, etc., containing stated number of papers each; two copies of customs entries to be filed with collector; tax to be paid to collector at time entries are filed with him; collector to make certain entries on copy of customs entry; report in duplicate to be made by collector of customs to collector of internal revenue of quantity imported. (T. D. 2552; Oct. 22, 1917.)

—— **Record, etc., of manufacturers of cigarette tubes.**

Every person, corporation, partnership, or association making up cigarette paper into packages, etc., in the United States, required to keep a book and enter therein each day the number of packages, etc., removed for consumption or use; daily record required of number of tubes sold and delivered tax free to duly registered manufacturers of cigarettes and also number of packages of tubes containing 100 tubes or fractional part thereof and number intended for use by smoker in making cigarettes removed subject to tax; monthly returns required; tax due at time of filing return. (T. D. 2552; Oct. 22, 1917.)

—— **Time when act effective.**

Section 404 of the act of October 3, 1917, levying a tax upon cigarette paper, took effect on November 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Rates of tax.

Taxes imposed by sections 400 to 403 of the act of October 3, 1917, removed from factory or customhouse for consumption or use on and after October 4, 1917, and November 2, 1917, according to their several classifications, shown by table. (T. D. 2569; Oct. 17, 1917.)

Soldiers' kits.

Instructions with reference to the shipment from tobacco and cigarette factories of so-called soldiers' kits or cartons containing packages of tobacco and cigarettes to New York, there to be repacked under supervision of customs officer for exportation to United States soldiers in Europe. (T. D. 2517; Aug. 17, 1917.)

Stamps—Cancellation.

Stamps required by section 400 of the act of October 3, 1917, must be affixed in such manner as to seal the package and shall be canceled by the manufacturer writing or imprinting on each stamp his factory number, the number of the district, and State, and date of cancellation to include month and year; in case of importer of small cigars or cigarettes the stamps shall be canceled by the owner or importer writing or imprinting upon same his name and date of cancellation to include month and year. (T. D. 2569; Oct. 17, 1917.)

—— **Inventory and return.**

All attached and unattached stamps for payment of tax on cigarettes held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory, notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

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Stamps—Continued.

—— Orders.

Forms of orders for stamps, revised, standardized as to size, printed in different colors, required to be used as soon as supply is forwarded to collectors and distributed by them to manufacturers. (T. D. 2411; Dec. 12, 1916.)

Instructions with reference to use by manufacturer of revised Form 485, orders for stamps for cigarettes. (T. D. 2604; Dec. 12, 1917.)

—— Sales.

Stamps for tax payment of imported cigarettes, to be sold only to owners, consignees, or importers, on requisition of proper customhouse officer; stamp order Forms 168, 172, 173, and 485 restricted to use of manufacturers in the United States; Regulations No. 8, revised July 1, 1910, page 62, amended to provide that when cigarettes imported in the mails are for delivery at places other than where examined by customs officers, and are forwarded to the postmaster who notifies the addressee, furnishing him with Customs Catalogue No. 3493, which is forwarded to postmaster with the package, necessary stamps shall be procured from and sold by the nearest collector of internal revenue. (T. D. 2500; June 15, 1917.)

Time when act effective.

Section 400 of the act of October 3, 1917, levying a tax upon cigarettes, took effect on November 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Withdrawal for use of United States—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district and State, the number of original or statutory packages and contents of each shall be set forth in each application, as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner; application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

—— Bills of lading.

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the other shall be forwarded immediately with letter of transmittal to the Commissioner. (T. D. 2982; Jan. 22, 1920.)

—— Bond for transportation and delivery.

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State, from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33, executed in duplicate, and the duplicate form to be attached to the duplicate bond; the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

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Withdrawal for use of United States—Continued.

—— **Certificate of receipt by Government officer.**

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within 30 days of date of withdrawal, where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— **Collector's account; credit on bond.**

The bond covering the total quantity of product requisitioned will be credited in the office of the Commissioner, to whom the collector will forward the original certificate of receipt immediately after it is received by him. (T. D. 2982; Jan. 22, 1920.)

—— **Departmental requisition.**

Whenever cigarettes are purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

—— **Entries in manufacturer's records and reports.**

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— **Labeling or branding.**

Each individual package of tobacco manufactures shall be labeled or branded "For the use of U. S. Government," together with number of permit and the date thereof, the letters and figures of such printing to be conspicuous, in bold-face type of not less than one-fourth of an inch in height. (T. D. 2982; Jan. 22, 1920.)

—— **Permit.**

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else request should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

CIRCUSES.

Admissions.

Proprietor, manager, or duly authorized officer of traveling or itinerant shows, exhibitions, or amusement enterprises, which have fixed or established headquarters, required to register with collector of district in which headquarters are located,

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Admissions—Continued.

and required to file at same time, or as soon thereafter as possible, a schedule of the itinerary, and to keep a daily record and render monthly returns to the collector of said district. (T. D. 2681; Mar. 26, 1918.)

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

Transportation charges.

Where a lump-sum charge is made for transportation of a circus train, which carries both property and persons, the 3 per cent tax applies to such charge; if, however, advance passenger transportation is included in such lump-sum charge, 8 per cent tax applies to such portion of charge as represents charge for advance passenger transportation, and 3 per cent tax applies to balance of lump-sum charge. (T. D. 2676; Mar. 18, 1918.)

CIVIC ORGANIZATIONS.

Capital stock tax.

Civic leagues or organizations not organized for profit, but operated exclusively for promotion of social welfare, are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income tax—Exemption.

Civic leagues are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of civic leagues is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

CLAIMS.

Abatement of taxes—Distilled spirits.

Fixing of rate of tax on spirits lost in transit for export, or by casualty in warehouses, does not affect right of distiller to obtain, in proper cases, abatement of tax under act of December 20, 1879, or section 3221, Revised Statutes. (T. D. 2539; Oct. 17, 1917.)

Provisions of T. D. 2688 do not govern in case of claims for abatement of taxes on distilled spirits, fermented liquors, and wines. (T. D. 2926; Sept. 29, 1919.)

—— Duplicate assessments.

Collectors instructed to present once a month blanket claim on Form 47 for abatement of taxes in cases of duplicate assessments, cases where specific exemption has not been taken on taxpayer's return, cases of excessive assessments caused by mathematically erroneous calculations of tax by taxpayer upon his return, and cases of 50 per cent additional taxes where tentative return has been filed within required time, but where fact of such filing has been overlooked in collector's office, and the additional tax made; schedule accompanying form; claim to be forwarded so as to be received in Commissioner's office by 5th of each month; separate claims required to be presented where amounts abatable have been assessed upon lists of the different classes. (T. D. 2698; Apr. 16, 1918.)

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Abatement of taxes—Continued.

—— **Excise taxes.**

Penalties of 5 per cent erroneously assessed under Revenue Act of 1917 on sales taxes in cases where formal demand in writing on Form 1-17 was not made on taxpayer should be refunded on Form 751 if collected, or abated on blanket Form 47 if not collected; all claims on these forms must be submitted by collector in triplicate, and notation showing reason for abatement (1) opposite each taxpayer's name on such claims, or (2) at head of each group of names to which same reason applies. (T. D. 3016; May 3, 1920.)

Statement of classes of claims for abatement of sales taxes or penalties which may be made by collectors on Form 751 or blanket Form 47 where claim has not been filed by individual taxpayers; these claims must be submitted by the collector in triplicate, and notation showing reason for abatement made opposite each taxpayer's name on such claims or at head of each group of names to which the same reason applies; claims for abatement of sales taxes or penalties other than those specified herein must be made by individual taxpayer on Form 46 or Form 47, respectively, except in specific instances where the collector may be given authority by the department to use Form 751 or blanket Form 47. (T. D. 2991; Mar. 13, 1920.)

—— **Income taxes—Erroneous or illegal assessment.**

Claims for abatement of taxes or penalties erroneously or illegally assessed or which are abatable under remedial acts, etc., must be made out upon Form 47, and must be sustained by specified affidavits; objections to claims should be carefully stated by collector in certificate to be attached to and made part of claim; claim should be further supported by certificate of collector showing specified data, collector being careful to set out full amount assessed; when case is compromised in which assessment is involved, amount paid as tax should be credited to list, and amount, if any, remaining outstanding, should be claimed for abatement on Form 47, if terms of compromise so require; claims on said Form 47 for abatement of errors for assessment made in collector's office, which errors are not corrected by filing Form 488, should be executed by collector, but briefed in name of taxpayer. (T. D. 2690; arts. 258, 259.)

When claims for abatement of taxes are allowed in office of Commissioner, schedule Form 7220 for abatement is drawn for aggregate of so much as is abated upon each claim named in schedule and schedule is sent directly to collector to whom taxes are charged, and is his authority for taking credit on Form 51B and his quarterly account, Form 79, for taxes abated; no credit for abatement shall be taken except upon schedule Form 7220 from Commissioner of Internal Revenue; orders for abatement are sent to auditor for Treasury Department. (T. D. 2690; art. 250.)

Filing of claim for abatement of tax alleged to have been erroneously assessed does not necessarily operate as suspension of collection of tax or make it any less the duty of the collector to exercise due diligence to prevent collection of tax being jeopardized; he should, if necessary, collect tax and leave taxpayer to his remedy by claim on Form 46. (T. D. 2690; art 261.)

Where claim for abatement on Form 47 is filed within 10 days after demand for payment of tax or penalty and accepted by collector, amount of 5 per cent penalty imposed by section 3184, Revised Statutes, on tax claimed, will wait on determination of claim; upon receipt of notice of reduction of claim, collector should immediately notify party assessed and demand payment of tax, and if tax is not then paid within 10 days after mailing notice, 5 per cent penalty accrues on amount not allowed; where entire amount of assessment is not demanded in claim and balance of tax is not paid within required 10 days, the 5 per cent penalty accrues on balance not claimed; interest at 1 per cent per month, imposed by said section 3184, continues to run, and should be collected with tax at time of payment for full number of calendar months which intervene between date of expiration of first 10 days' notice and date of payment of tax, notwithstanding fact that claim for abatement has been filed. (T. D. 2690; arts. 262, 263.)

—— —— **Uncollectible taxes.**

Under section 3218, Revised Statutes, collectors are entitled to credit for tax assessed against parties who may have absconded or become insolvent prior to day when tax ought to have been collected, provided due diligence was used by the collector, but, as obligation to pay still remains upon the parties assessed, collectors required to keep record (No. 23) of all taxes thus credited and of person from whom they are due, and to enforce payment whenever it is in their power so to do; if tax reported as uncollectible on account of insolvency or absconding of party is paid

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Abatement of taxes—Continued.

—— **Income taxes**—Continued.

—— —— **Uncollectible taxes**—Continued.

after credit has been given for it, it should be returned upon Form 58. (T. D. 2690; arts. 247, 248.)

Collector or deputy who made demand for payment required to prepare claim for taxes and assessed penalties alleged to be uncollectible on Form 53, showing certain specified facts; collector must show that tax could not have been collected at time they first became due and payable nor at any time since; in case of payment of tax for which claim is pending, collector should notify department at once; claim should be mailed to Commissioner of Internal Revenue, but letter of transmittal should not be sent with claim unless they contain necessary explanations. (T. D. 2690; art. 249.)

No suit will be brought to recover unpaid taxes until collector of district shall have submitted to Commissioner full report of all material facts and circumstances of the case, and shall have received express authority to report case to United States attorney for suit. (T. D. 2690; art. 250.)

Amounts collected by distraint or otherwise subsequent to institution of suit for collection by United States attorney should be at once reported to United States attorney for his guidance in his further prosecution of case in court. (T. D. 2690; art. 251.)

Credit given collector for taxes abated as uncollectible will not affect suit pending for their recovery, nor will it relieve collector from duty of distraining any property of taxpayer that may be found at any time before judgment. (T. D. 2690; art. 252.)

When suit to recover tax is decided in favor of United States, and execution issued and returned nulla bona as respects whole or part of judgment, collector should satisfy himself whether or not any personal property can be found to satisfy such judgment, and whether there is any real property which can be subjected, by distraint or by suit in equity, under section 3207, Revised Statutes, to sale in satisfaction of judgment; where satisfied that there is no such real or personal property collector should present to Commissioner a claim on Form 53 for abatement of amount not collected if it has not already been abated, making statement thereon of his action, accompanied by certificate of clerk of court as to facts in case. (T. D. 2690; art. 253.)

Where suit for taxes not abated as uncollectible is dismissed upon technical defect in proceedings, or when adverse verdict is rendered on some technical ground not reachiug merits of case, and right to new trial or to appeal has elapsed and tax can not be collected by distraint or by suit in equity to subject real estate to sale, claim for abatement should be made on Form 53. (T. D. 2690; art. 254.)

Collectors are authorized to pay clerk of court his legal fees for certificates furnished by him relative to litigated taxes, and will be credited in their expense accounts for amounts so paid on filing therewith vouchers covering expenses thus incurred. (T. D. 2690; art. 255.)

Where land is sold to satisfy assessments, amount realized after deducting expenses of sale, should be credited to the lists, and the remainder, if uncollectible, claimed on Form 53; if land is bought in by collector for United States, amount for which same is purchased, after deducting expenses of sale, should be credited to assessments under limitations prescribed in Regulations No. 2, revised, and remainder, if uncollectible, claimed on Form 53. (T. D. 2690; art. 256.)

When claims for abatement of taxes are allowed in office of Commissioner, schedule Form 7220 for abatement is drawn for aggregate of so much as is abated upon each claim named in schedule, and schedule is sent directly to collector to whom taxes are charged, and is his authority for taking credit on Form 51B and his quarterly account, Form 79, for taxes abated; no credit for abatement shall be taken except upon schedule Form 7220 from Commissioner of Internal Revenue; orders for abatement are sent to auditor for Treasury Department. (T. D. 2690; art. 259.)

Where collector discovers from schedule of abated taxes that mistake has occurred either in having abated a larger amount than that claimed or in abating a tax previously abated, he should immediately notify Commissioner of such fact, so that order may be recalled, and error be corrected by issuing of new one in its place; in such case no credit for any amount whatever should be taken upon Form 51B, or upon quarterly account, until order of abatement and schedule have been corrected. (T. D. 2690; art 260.)

Taxes erroneously or illegally assessed are by the Commissioner of Internal Revenue abated to the taxpayer, while taxes uncollectible are simply abated by the Commissioner to the collector against whom they are charged; but amounts which

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Abatement of taxes—Continued.

—— **Income taxes**—Continued.

—— —— **Uncollectible taxes**—Continued.

by error or otherwise have been twice charged to a collector are held to be matters of account and not subjects for abatement; collectors should use Form 488 to adjust errors in income-tax matters held to be matters of account, and not subject for abatement, and forward completed form to Commissioner of Internal Revenue, marked "Income Tax Division." (T. D. 2690; art. 264.)

—— **Procedure.**

Instructions to collectors modifying Regulations Nos. 2, 14, and 33 (arts. 247–273), prescribing procedure with regard to claims on Forms 46, 47, 53, and 488. (T. D. 2654; Feb. 19, 1918.)

Claims for abatement of sales taxes or penalties and interest other than those specified in this Treasury Decision must be made by individual taxpayer on Form 46 or 47, respectively, except in specific instances where collector may be given authority by the Bureau to use Form 751 or blanket Form 47. (T. D. 3016; May 3, 1920.)

Duplicate assessments should be abated on blanket Form 47; claims must be submitted by collector in triplicate, and notation showing reason for abatement (1) opposite each taxpayer's name on such claims, or (2) at head of each group of names to which same reason applies. (T. D. 3016; May 3, 1920.)

Penalties of 200 per cent erroneously assessed under Revenue Act of 1917 should be abated on blanket Form 47; claims on such form must be submitted by collector in triplicate, and notation showing reason for abatement (1) opposite each taxpayer's name on such claims, or (2) at head of each group of names to which same reason applies. (T. D. 3016; May 3, 1920.)

—— **Wines.**

Wines in transit September 8, 1916, should be so inventoried by both shipper and receiver, tax in such cases to be assessed against shipper, but abated if paid by receiver. (T. D. 2387; Oct. 30, 1916.)

The abatement provision of section 402 of the act of September 8, 1916, applies not to the tax collectible on the finished wines, but to the tax assessed on the brandy used in the fortification of such wines; proof as to the use of the brandy and actual possession of wines by producer at time such act went into effect must be furnished with each claim filed; part of paragraph 23 of Regulations No. 28, supplement No. 2, revoked. (T. D. 2440; Feb. 5, 1917.)

Refund of taxes—Admissions.

Where a ticket is redeemed before a performance, the tax imposed by section 700 of the act of October 3, 1917, as well as the price of the ticket, should be refunded; where a pass is "tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered by it. (T. D. 2681; Mar. 26, 1918.)

—— **Capital stock tax.**

Commissioner of Internal Revenue will estimate fair value of capital stock in cases regarded as involving any understatement or undervaluation when second assessment is made in case of any return which in opinion of collector was false or fraudulent or contained any understatement or undervaluation; no tax collected under such assessment shall be recovered by any suit unless it is proved that return was not false or fraudulent and did not contain any understatement or undervaluation. (T. D. 2750, art. 19; Aug. 9, 1918.)

No tax is refundable if corporation ceases to do business during the year. (T. D. 2750, art. 1; Aug. 9, 1918.)

The amount, if any, of the munition manufacturer's tax imposed by Title III of the act of September 8, 1916, actually paid by the corporation since making its last previous return is deductible from capital stock tax; if munition manufacturer's tax is due and payable but has not been paid at time capital stock tax becomes due and payable, no credit of the munition manufacturer's tax is permissible until after such latter tax has been paid; after its payment the credit may be availed of by a claim for refund of so much of capital stock tax actually paid as is not in excess of the munition manufacturer's tax which became due and payable within the same calendar year. (T. D. 3009; Apr. 22, 1920.)

—— **Distilled spirits.**

Claims for remission of tax on spirits lost in transit for export not required where spirits are shipped in sealed cars and the seals, on arrival of cars, are found intact, and where loss reported does not exceed 4 wine gallons as to any one package, pro-

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Refund of taxes—Continued.

—— **Distilled spirits**—Continued.

vided average loss does not exceed 2 wine gallons per package as to all packages gauged; requisites of application for relief where loss reported exceeds amount stated; certificate setting forth whether spirits were insured in excess of market value thereof, exclusive of tax; regulations applicable to spirits lost when shipped in unsealed cars, except that loss in excess of 1 proof gallon per package will be regarded in such cases as excessive. (T. D. 2461; Mar. 16, 1917.)

Fixing of rate of tax on spirits lost in transit for export, or by casualty in warehouses, does not affect right of distiller to obtain, in proper cases, refund of tax under act of December 20, 1879, or section 3221, Revised Statutes. (T. D. 2539; Oct. 17, 1917.)

—— **Estate tax.**

Under section 207, act September 8, 1916, if amount of tax as finally determined is less than amount paid upon basis of tentative return, Commissioner will, upon filing claim on Form 46, make refund of excess payment; if amount of tax as finally determined exceeds amount so paid, Commissioner will notify executor of such excess; from time of such notification to time of final payment of such excess part of the tax interest will be added at rate of 10 per cent per annum. (T. D. 2756; Sept. 5, 1918.)

—— **Excessive payments.**

Advancements will be made to each collector of internal revenue, at the beginning of each quarter of fiscal year, out of appropriation for refundment of internal-revenue taxes, sum estimated to be sufficient for repayment of excessive collections, as follows: (1) Collections exceeding tax shown by return of taxpayer to be due; (2) collections exceeding amount of tax shown by assessment list to be due; (3) duplicate payments where (*a*) both are made in advance of assessment, (*b*) both are made after assessment, (*c*) one is made before and one after assessment. Procedure governing refund stated. (T. D. 2688; Apr. 1, 1918.)

—— **Excise taxes.**

Evidence sustaining allegations of incorrectness in returns by corporations subject to tax imposed by act of August 5, 1909, need not be set out in the declaration in suit to recover such tax. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

According to decision in case of Chicago & Alton Railroad Co. *v.* United States, decided by Court of Claims, December 3, 1917, where railroad company sold bonds and equipment notes at discount in 1906 and books showed that loss was entirely charged off under profit and loss account for that year, and company in making returns under act of August 5, 1909, for purpose of assessment of excise tax for years 1911 and 1912, failed to deduct proportionate amount of discount sustained, it has no right to refund of such amount. (T. D. 2631; Jan. 19, 1918. Ct. Dec.)

According to the decision in the case of Camp Bird (Ltd.) *v.* Howbert, decided by circuit court of appeals, at the December term, 1917, a corporation which understated in its original return the amount for which it was subject to tax may not recover any part of a second assessment paid, although original return was made in good faith and without any intention to escape lawful tax. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

Tax imposed by act of October 3, 1917, is payable in respect of sale made whether or not purchase price is actually collected, but if articles sold are returned and sale entirely rescinded no tax is payable, and if paid it is refundable. (T. D. 2719; Art. VI.)

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid and statement that goods were actually delivered to consignee named in a foreign country or the Philippine Islands or Porto Rico, pursuant to sale by claimant by one of the methods recognized in T. D. 2781, and that affiant has received advice to this effect, may be accepted as satisfactory evidence in support of claim for recovery back of excise taxes paid under Title VI of the act of October 3, 1917, in cases where because of number of shipments and small amount of tax involved in each it is impracticable to furnish copies of invoices covering goods sold, ships' receipts, or copies of through bills of lading. (T. D. 2785; Jan. 23, 1919.)

Since Revised Statutes, section 3464, only extends the exemption to cases covered by the regulations, if such regulations are not complied with and goods for Government use are delivered without regard thereto, the tax must be paid, and having been paid, can not be refunded. (T. D. 2785; Jan. 23, 1919.)

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Refund of taxes—Continued.

—— **Excise taxes**—Continued.

Statement of classes of claims for refund of sales taxes or penalties which may be made by collectors on Form 751 or blanket Form 47 where claim has not been filed by individual taxpayers; these claims must be submitted by the collector in triplicate, and notation showing reason for refund made opposite each taxpayer's name on such claims or at head of each group of names to which the same reason applies; claims for refund of sales taxes or penalties other than those specified herein must be made by individual taxpayer on Form 46 or Form 47, respectively, except in specific instances where the collector may be given authority by the department to use Form 751 or blanket Form 47. (T. D. 2991; Mar. 13, 1920.)

Claims for refund of sales taxes or penalties and interest other than those specified in this Treasury Decision must be made by individual taxpayer on Form 46 or 47, respectively, except in specific instances where collector may be given authority by the Bureau to use Form 751 or blanket Form 47. (T. D. 3016; May 3, 1920.)

Penalties of 5 per cent erroneously assessed under Revenue Act of 1917 on sales taxes in cases where formal demand in writing on Form 1-17 was not made on taxpayer should be refunded on Form 751 if collected, or abated on blanket Form 47 if not collected; all claims on these forms must be submitted by collector in triplicate, and notation showing reason for abatement (1) opposite each taxpayer's name on such claims, or (2) at head of each group of names to which same reason applies. (T. D. 3016; May 3, 1920.)

—— **Income taxes.**

Where corporation discovers expenses or liabilities which were due and payable during preceding year, it may make amended return for year to which such expense or liability applies, include such expense in deductions of that year, and file claim for refund for any taxes overpaid by reason of failure to deduct such expense or liability in original return of that year. (T. D. 2690; art. 128.)

Where no depreciation has been charged off and deducted from gross income of prior years, amount allowable as deduction for year in which property becomes obsolete shall be ascertained by deducting from property its residual value plus amount equal to depreciation actually sustained during the prior period and which might have been deducted when computed at rate applicable to same or similar property; amount of such depreciation as applicable to former years may be made basis of amended returns and claim for refund of taxes overpaid by reason of fact that no depreciation deduction was claimed in those years. (T. D. 2690; art. 179.)

Claims for refund of assessed tax and penalties must be made out upon Form 46, and all facts relied upon in support of claim should be clearly set forth under oath, claim to be supported by affidavit of deputy collector of proper division and by certificate of collector showing certain specified matters; claim should be made in name of party assessed, if living, but if dead, claim should be made in name of executor or administrator and certified copies of letters of administration or letters testamentary or other similar evidence should be affixed to claim to show that claimant is administrator, etc.; affidavit may be made by agent of party assessed, but in such case, power of attorney must accompany claim. (T. D. 2690; arts. 265, 266.)

Warrants in payment of claims allowed will be drawn in names of parties entitled to money and shall, unless otherwise directed, be sent by Treasurer of United States directly to proper parties or their duly authorized attorneys or agents; where claimants are indebted to United States for taxes, they must be paid before warrants are delivered. (T. D. 2690; arts. 267, 268.)

Under section 14 (e) of the act of September 8, 1916, upon examination of any return of income made pursuant to act of August 5, 1909, levying excise tax, and acts of October 3, 1913, September 8, 1916, and October 3, 1917, levying income tax "and for other purposes," if it shall appear that amounts of tax have been paid in excess of those properly due, taxpayer may present claim for refund notwithstanding provisions of section 3228, Revised Statutes. (T. D. 2690; art. 269.)

Lodging of an appeal (claim for refund) made out in due form with proper collector of internal revenue for purpose of transmission to Commissioner of Internal Revenue, in usual course of business, under requirements of Regulations of Secretary of the Treasury is in legal effect a presentation of the appeal to the Commissioner. (T. D. 2690; art. 270.)

All claims for refund of taxes should be received by collector and forwarded to Commissioner of Internal Revenue; in no case should collector refuse to forward claim for reason that it was not presented to him within two years after payment of tax. (T. D. 2690; art. 271.)

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Refund of taxes—Continued.

—— **Income taxes**—Continued.

Collector should keep perfect record in book furnished for purpose of all claims presented to commissioner and must certify as to each claim whether it has been before presented or not. (T. D. 2690; art. 272.)

Rules for preparation and verification of claims on Forms 46 or 47 stated. (T. D. 2690; art. 273.)

Claims for sums of money recovered by suit for any of the causes and against any of the officers enumerated in section 3220, Revised Statutes, should be made upon Form 46, and claimant should state grounds of claim under oath, giving names of parties to suit, cause of action, dates of commencement and of judgment, court in which judgment was recovered and its amount; to affidavit there should be annexed a duly certified copy of record of court, copy of final judgment, certificate of probable cause, and itemized bill of costs paid receipted by clerk or other officer of court. (T. D. 2690; art. 274.)

In view of provisions of section 989, Revised Statutes, protecting collector from personal liability in case court certifies that there was probable cause for act done by him, it is for interest of collector to see that in all cases wherein judgment is rendered against him, court shall be asked to give certificate of probable cause; if judgment debtor shall have already paid amount recovered against him, claim should be made in his name and affidavit should state exact amount paid by him; there should also be certificate of clerk of court in which judgment was recovered (or other satisfactory evidence) showing that judgment has been satisfied and specifying exact sum paid in as satisfaction, with detail of all items of cost paid or for which judgment debtor is liable. (T. D. 2690; art. 275.)

—— **Inheritance taxes.**

Judgment in suit against collector to recover succession tax collected under act of June 13, 1898, for part of claim only, certain interests involved being erroneously held to be taxable as being vested in possession or enjoyment before July 1, 1902, which judgment was satisfied by the United States, is no bar to suit against United States in Court of Claims to recover unpaid residue. (T. D. 2885; July 10, 1919. Ct. Dec.)

Claim for refund filed in August, 1903, with Commissioner of Internal Revenue as prerequisite to suit against collector to recover succession tax collected under act of June 13, 1898, is sufficient to meet requirements of act of July 27, 1912; effect of claim was not extinguished by judgment in suit and it is not necessary that claim be filed under the 1912 act. (T. D. 2885; July 10, 1919. Ct. Dec.)

Where application was made on September 7, 1916, to the Secretary of the Treasury for repayment of tax collected under act of June 13, 1898, and claim was rejected on October 30, 1916, suit brought in Court of Claims on January 23, 1917, under the act of July 27, 1912, was within the six-year period allowed by section 1069, Revised Statutes. (T. D. 2885; July 10, 1919. Ct. Dec.)

Claim for refund filed by the attorney for trust company, trustee under will, and claim filed for and in behalf of administrator de bonis non of decedent, can not be ascribed to cestui que trust on whose behalf the original executrix paid the tax without protest, and hence did not satisfy provision of act of July 27, 1912, that repayment shall be made to "such claimants as have presented or shall hereafter so present their claims." (T. D. 2886; July 10, 1919. Ct. Dec.)

Inutility of filing claim by the cestui que trust, based on fact that she knew precise facts of demands that had been made, and that she knew also that claims of the class to which hers belonged had been uniformly rejected, can not be urged as an excuse for failure to file another claim in her own name. (T. D. 2886; July 10, 1919. Ct. Dec.)

A tax demanded and paid under section 29 of the war-revenue act of June 13, 1898, on a contingent beneficial interest not vested prior to July 1, 1902, contrary to the refunding act of June 27, 1902, is a tax "erroneously collected" within meaning of the act of July 27, 1912, although payment was without protest or reservation, and under that act right to refund is barred if claim was not presented to the Commissioner of Internal Revenue on or before January 1, 1914. (T. D. 3007; Apr. 22, 1920. Ct. Dec.)

—— **Occupational tax.**

Where, after payment of special tax, seating capacity of theater is increased beyond that which tax previously paid is sufficient to cover, tax at higher rate must be paid covering period beginning with first day of month in which seating capacity is increased and ending June 30 following; if return disclosing new liability is not

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Refund of taxes—Continued.

—— **Occupational tax**—Continued.

made during month in which change takes place, liability to penalty of 50 per cent of new tax is incurred; payment of tax at higher rate does not entitle taxpayer to refund of any part of amount first paid. (T. D. 2775; Nov. 29, 1918.)

—— **Procedure.**

Instructions to collectors modifying Regulations Nos. 2, 14, and 33 (art. 247-273), prescribing procedure with regard to claims on Forms 46, 47, 53, and 488. (T. D. 2654; Feb. 19, 1918.)

Procedure to be observed in filing claims for refund of transportation tax based on ground that transportation service was rendered an exempt governmental agency and that tax was collected on property in process of exportation, stated. (T. D. 2727; June 5, 1918.)

Nonrevenue remittances, such as State or municipal taxes, sent to collector through error and deposited by him, should be refunded on Form 751; claims on this form must be submitted by collector in triplicate. (T. D. 3016; May 3, 1920.)

Filing of amended returns does not constitute beginning of new proceedings which so supersede the original returns as to remove bar imposed by sections 3227, 3228, Revised Statutes, against claims by taxpayers for refund of taxes paid upon original returns and assessments. (T. D. 3013; May 3, 1920. Ct. Dec.)

—— **Reopening.**

Under section 14, paragraph A, of the act of September 8, 1916, claims for refund rejected by Commissioner because of statute of limitations in existence at that time can be reopened if question involves an examination of the return. (T. D. 2396; Nov. 1, 1916.)

—— **Statements by revenue officers.**

Revenue officers are prohibited from furnishing statements in cases pending before office of Commissioner unless called for by such office or required by regulations to be furnished in cases when originally presented through regular official channels; violation of instructions contained in T. D. 1607 will subject offending officer to dismissal, and when circumstances justify, to prosecution under section 3169 of the Revised Statutes. (T. D. 2443; Feb. 9, 1917.)

—— **Wines.**

Refunding provision of section 402 of act of September 8, 1916, applies not to the tax collectible on the finished wines but to the tax assessed on the brandy used in the fortification of such wines; proof as to use of brandy and actual possession of wines by producer at time such act went into effect must be furnished with each claim filed; part of paragraph 23 of Regulations No. 28, supplement No. 2, revoked. (T. D. 2440; Feb. 5, 1917.)

There is no provision in the act of September 8, 1916, for refund of tax on brandy used in fortifying wines or redistillation of such wines; since act of September 8, 1916, is amendatory of the act of October 22, 1914, refunding provision of latter act is not applicable. (T. D. 2387; Oct. 30, 1916.)

CLARIFIED WINES.

See "Wines."

CLEARING HOUSE.

Definition.

The terms "clearing house," "clearing house corporation," and "clearing house association," within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, include each and every association of individuals, partnerships, and associations engaged in business of clearing, settling, or adjusting transactions in the purchase, sale, receipt or delivery of shares of stock, whether or not the same be a part or department of an exchange or an independent body. (T. D. 2608; Nov. 30, 1917.)

The term "clearing house," within Regulations No. 40, Part 2, relating to stamp taxes upon sales of produce or merchandise on exchanges for future delivery, includes every clearing-house corporation, clearing-house association, or incorporated or unincorporated association, carried on for purpose of clearing, settling, and adjusting transactions in purchasing, selling, receiving, or delivering produce or merchandise, whether such clearing house be a part or department of an exchange or an independent body. (T. D. 2608; Nov. 30, 1917.)

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Sales for future delivery—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale on agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and canceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— **Exempt transactions.**

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memoranda of sales.**

Every sale or agreement, not evidenced by memorandum or contract expressly requiring immediate or prompt delivery shall be deemed to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery, shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchange for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses acting as agents required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

Stock sales—Exempt transactions.

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

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CLUBS.

Capital stock tax.

Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes no part of net income of which inures to benefit of any private stockholder or member, is exempt from tax imposed by section 497 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues.

See "Dues."

Income tax—Exemption.

Clubs are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2699; art. 67.)

Social clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes are exempt from tax, provided no part of any net income inures to benefit of any private stockholder or individual; this exemption reaches practically all social and recreation clubs supported by membership fees, dues and assessments; if a club, by reason of comprehensive powers granted in its charter, engages in any business for profit, it will be held that such club is not a social club, it thus becoming a business or commercial enterprise, and any profit realized is subject to tax. (T. D. 2690; art. 72.)

Exemption from filing returns and paying income tax of pleasure and recreation clubs is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

COCAINE.

See "Narcotics."

COCKTAILS.

See "Rectified Spirits"; "Wines."

COLLATERAL SECURITY.

Assignment of insurance policy.

No stamp tax is imposed upon power of attorney in transfer by assignment, absolute or as collateral security, of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in assignee. (T. D. 2599; Dec. 3, 1917.)

Distilled spirits.

Persons selling warehouse receipts representing distilled spirits in storage are liable to special tax as they would be on account of the sale of the spirits themselves, but in view of section 3244, Revised Statutes, as amended, such liability will not attach to persons selling such certificates received as security for or in payment of a debt, provided such certificates or the spirits represented thereby are sold in one lot, or the spirits are sold at public auction in lots of not less than 20 gallons each; T. D. 1278 revoked. (T. D. 2784; Jan. 23, 1919.)

Estate tax—Nonresident decedents.

Brokers holding as collateral securities belonging to nonresident decedent may not release to foreign administrator or executor or foreign beneficiary such securities until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

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Excess profits tax.

Property of member of partnership deposited with bank and pledged as collateral security for the repayment of a loan by or for the benefit of the partnership in pursuance of the articles of partnership is part of the invested capital of such partnership, within act of Oct. 3, 1917. (T. D. 3080; Oct. 19, 1920; Ct. Dec.)

Floor taxes.

Form of bond with personal surety to be executed in penal sum of not less than tax due and in no case less than $1,000 prescribed: personal surety need not be required to qualify on Form 33 when he is supported by collateral security of a value clearly in excess of amount of tax due. (T. D. 2557; Oct. 27, 1917.)

Where collateral other than Liberty bonds is deposited as security, principal must execute bond in stated form, and collector is required to give certain receipt; collateral should be surrendered to taxpayer as soon as tax and interest have been paid; if tax is paid in installments proportionate amount of collateral deposited may be surrendered in discretion of collector. (T. D. 2574; Oct. 31, 1917.)

Any registered or coupon bonds of the United States may be accepted as security for payment of floor taxes, in accordance with T. D. 2537, T. D. 2554, and T. D. 2557. (T. D. 2606; Dec. 13, 1917.)

—— Liberty bonds.

Collectors authorized to accept in lieu of surety bonds as securety for payment of floor taxes covered by section 1002 of the act of October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of taxes due. (T. D. 2537; Oct. 17, 1917.)

Bonds deposited as security must be immediately forwarded to Commissioner of Internal Revenue by registered mail for safe-keeping, except where collector's office is in same city as Federal reserve bank, in which case coupon bonds received should be deposited with such bank, which will issue its receipt; disposition of receipts; assignment of registered bonds; insurance of package. (T. D. 2554; Oct. 25, 1917.)

Collectors authorized to accept certificate of bank or trust company, member of Federal Reserve System, sufficiency and solvency of which are satisfactory to collector, to effect that taxpayer has deposited cash or Treasury certificate of indebtedness in full payment of Liberty loan bond subscriptions in name of "Commissioner of Internal Revenue in trust for ——— ———," or in event bond transaction is not consummated taxes will be paid to collector in cash or corporate surety bond filed; form of certificate indicated; certificate to be forwarded to Commissioner of Internal Revenue. (T. D. 2554; Oct. 25, 1917.)

Where Liberty bonds or other collateral are deposited as security, principal must execute bond in stated form, and collectors should give to depositor receipt in form stated; Liberty bonds or other collateral deposited and in possession of collector should be surrendered to taxpayer as soon as tax and interest have been paid; if tax is paid in installments, proportionate amount of collateral deposited may be surrendered in discretion of collector. (T. D. 2574; Oct. 31, 1917.)

Stamp taxes.

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

Bonds of a private corporation delivered by it to the United States Housing Corporation as collateral security for a loan to aid the borrower in performing its contract with the United States Housing Corporation are subject to stamp tax. (T. D. 2782; Dec. 24, 1918.)

Wine makers.

Wine maker producing not exceeding 1,000 gallons may either file bond, Form 699, or may deposit with collector as security Liberty loan bonds or cash equal to amount of tax; if Liberty loan bonds are deposited, he must execute bond, in duplicate,

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Wine makers—Continued.

in stated form, and in such form with appropriate substitutions in case cash is deposited; bond and security must be filed with collector prior to time of crushing grapes. (T. D. 2765; Oct. 21, 1918.)

When Liberty loan bonds or cash are deposited as security by wine maker producing not exceeding 1,000 gallons per year, the collector should give the depositor a receipt in stated form, which receipt should be made in triplicate, one copy being immediately transmitted to Commissioner of Internal Revenue; safekeeping of bonds; assigning of registered bonds; security thus pledged should not be held by collector except upon instructions from Commissioner, and security will be surrendered as soon as tax and any accrued penalty and interest have been paid. (T. D. 2765; Oct. 21, 1918.)

COLLECTION.

Taxes.

See specific heads.

COLLECTORS OF INTERNAL REVENUE.

Actions against.

Act of February 8, 1899, which provides that no action against a United States officer shall abate by reason of the expiration of his term was to enable proceedings pending against public officials in their official capacity to be continued when necessary to obtain settlement of questions involved. (T. D. 2394; Nov. 14, 1916. Ct. Dec.)

Suit to recover back taxes collected can not be maintained against successor of collector to whom taxes were paid except in his individual capacity; remedy either lies in action against collector who actually received the taxes or in action against the United States. (T. D. 2394; Nov. 14, 1916. Ct. Dec.)

Suit for recovery of taxes erroneously or illegally assessed can be brought only against collector who collected the taxes and not against his successor, according to the decision in the case of Philadelphia, Harrisburg and Pittsburgh Railroad Co. *v.* Lederer. (T. D. 2507; July 2, 1917. Ct. Dec.)

Expenses.

Effective July 1, 1919, field deputy collectors entitled to actual necessary traveling expenses and reimbursement for amount actually expended for lodging and subsistence not to exceed statutory limit of $5 per day when absent from designated posts of duty; post of duty shall be fixed within division to which such collector is assigned, and shall be designated at the largest town or city in that division. (T. D. 2884; July 9, 1919.)

Instructions to.

See specific heads.

COLLEGES.

Admissions to entertainments.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

Every institution claiming exemption from collecting tax on admissions by reason of being educational required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Salaries received under Smith-Lever Act.

Where employees of universities receiving salaries paid in part or in whole from funds received under the Smith-Lever Act of May 8, 1914, are officers or employees of a State, they are not required to include in their income tax returns as taxable

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Income taxes—Salaries received under Smith-Lever Act—Continued.

income the salaries so received; if organization of college is one which belongs to State and which State governs, legislature may vacate officers, elect new professors, and do whatever it thinks necessary in management of the college, but if colleges are governed by trustees not directly responsible to State legislatures, employees receiving salaries paid in part from Smith-Lever funds are not employees of the State, and are not exempt from tax on that ground. (T. D. 2668; Mar. 9, 1918.)

Withdrawal of alcohol for use of.

See "Alcohol."

COMMERCIAL CLUBS.

See "Boards of Trade."

Capital stock tax.

Business league, chamber of commerce, or board of trade, not organized for profit and no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art 12; Aug. 9, 1918.)

Dues.

Tax imposed by section 701 of act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

Dues paid for membership privileges in chamber of commerce or other primarily commercial organization are taxable if privileges include clubhouse facilities such as are afforded by ordinary city social club. (T. D. 2795; Feb. 26, 1919.)

Those social facilities afforded by a commercial club which are kept open freely to the public and not limited to members are not sufficient to constitute the club a social club for purposes of the dues tax. (T. D. 2782; Dec. 24, 1918.)

Dues paid commercial club conducted primarily for commercial objects are not taxable for special reason that chief social feature, that of the restaurant, besides being maintained as an adjunct to the luncheon meetings, is regularly opened to the members, local business and civic organizations, and used by them for purposes which the club is engaged in furthering. (T. D. 2795; Feb. 26, 1919.)

Income taxes—Exemption.

Exemption from filing returns and paying income tax of commercial clubs is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

COMMISSIONS.

Excise taxes—Basis of tax.

Commissions to agents and other expenses of sale are not deductible from price in computing same for purpose of tax imposed by section 600 of the act of October 3, 1917. (T. D. 2719; Art. III.)

Income taxes.

Commissions paid salesmen are income to the salesmen as well as expense to the payer. (T. D. 2690; art. 4.)

Commissions on renewal premium for insurance received by agents on account of business written is income to be accounted for as such and for calendar year of its receipt. (T. D. 2690; art. 4.)

Commissions paid in purchasing and selling securities are a part of the cost or selling price of the securities and not otherwise deductible; they do not constitute expense deductions. (T. D. 2690; art. 8.)

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Income taxes—Continued.

Where corporation sells its bonds at discount plus commission for selling amount of such discount and commission, together with other expenses incidental to issuing bonds, constitute a loss, aggregate amount of which will for purpose of income-tax return be prorated over life of bonds sold and amount thus apportioned to each year will be deductible from gross income of each year until bonds shall have been redeemed. (T. D. 2690; art. 150.)

COMMUNITY PROPERTY.

Estate tax.

Highest selling price of stocks and bonds on day of death fixed as value to be returned, or, if no sale, then highest bid price; if stocks or bonds are not listed on the market the executor may set up value that he deems true value as of day of decedent's death; if bulk of estate is community property its value should not be shown under item 4 of Form 706, but decedent's legal share should be returned under the several items. (T. D. 2513; July 16, 1917.)

If property conveyed to husband and wife is taken by each in entirety and in such manner that each was owner of all, and upon death of either no new interest or title vested in survivor, one-half of property thus jointly owned should be returned as portion of gross estate of decedent husband or wife, as case may be; wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of showing that surviving spouse owned any interest therein is upon such spouse. (T. D. 2450; Feb. 14, 1917.)

Thirty-day notice (Form 706) must be filed within 30 days after death of decedent whose estate is taxable, by surviving husband or wife, as case may be, for one-half the value, at decedent's death, of community property. (T. D. 2454; Feb. 28, 1917.)

COMMUTATION TICKETS.

Passenger transportation.

The term "commutation or season tickets," as used in section 500, subdivision (c), of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply to amounts paid for transportation of persons in case of commutation tickets for trips less than 30 miles. (T. D. 2676; Mar. 18, 1918.)

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for commutation books purchased in United States, calling for accommodations in parlor or sleeping cars, or on vessels, in which event tax shall be paid as and when collections are made or amount paid for such books; if books be purchased outside the United States, tax applies to amount paid for coupons lifted, calling for accommodations between or from points in United States, and tax shall be collected as and when coupons are lifted. (T. D. 2676; Mar. 18, 1918.)

Commutation tickets sold and partially used before November 1, 1917, are not taxable if presented after that date for remainder of journey or journeys called for. (T. D. 2676; Mar. 18, 1918.)

COMPENSATION.

Income taxes.

Retired pay of Army and Navy officers is subject to income tax. (T. D. 2690; art. 4.)

Retired pay of judges of United States courts is subject to income tax. (T. D. 2690; art. 4.)

Compensation for service paid for on percentage of net profits is income to employee and must be accounted for as such; where service is rendered for stipulated price, wage, or salary, and paid with something other than money, stipulated value of service in terms of money is value at which thing taken in payment is to be considered for purpose of tax; in absence of stipulation as to value of service, payment being made with something other than money, market or reasonable value of thing taken in payment is amount to be included as income. (T. D. 2690; art. 4.)

Compensation of President of United States for term for which he is elected, beginning March 4, 1917, shall not be included as income for purposes of income

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Income taxes—Continued.

tax under act of October 3, 1917, such compensation being subject to tax under the act of September 8, 1916. (T. D. 2690; art. 5.)

Compensation of all officers and employees of a State or any political subdivision thereof, except when such compensation is paid by United States Government, shall not be included as income. (T. D. 2690; art. 5.)

Compensation of all judges of the Supreme Court and inferior courts of the United States in office September 8, 1916, and October 3, 1917, shall not be included as income, compensation of judges of those courts appointed subsequent to September 8, 1916, being subject to tax under act of that date but not under act of October 3, 1917; compensation of judges of such courts appointed subsequent to October 3, 1917, are subject to tax under both acts. (T. D. 2690; art. 5.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships, to nonresident alien employees for services rendered entirely in a foreign country and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art 32.)

—— **Deductions from gross income.**

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Amounts paid for salary received for all services rendered are deductible as business expense when expenditures are occasioned by the service in respect of which salary is paid. (T. D. 2690; art. 8.)

Debts arising from unpaid wages, salary, rents, and items of similar taxable income, not allowed as deduction unless income they represent has been included in return of gross income for year in which deduction as bad debt is sought to be made or in previous year, and debts themselves have been actually ascertained to be worthless and charged off. (T. D. 2690; art. 8.)

When amount of salary of officer or employee is paid for limited period after his death to his widow or heirs in recognition of services rendered by individual, no services being rendered by widow or heirs, such payment is not ordinary and necessary expense of transacting business and may not be deducted. (T. D. 2690; art. 137.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered by employees; if, when added to stipulated salaries, they do not exceed a reasonable compensation for services rendered, they will be regarded as a part of the wage or hire of the employee and are deductible as an ordinary and necessary expense of operation and maintenance. (T. D. 2690; art. 138.)

Special payments made to officers or employees who are stockholders, in guise of additional salaries or compensation, amount of which is based upon or bears close relationship to stockholdings of such officers or employees, or capital invested by them in business of company, will be regarded as special distribution of profits or compensation for capital invested, and not payment for services rendered; payments under such latter conditions, being in nature of dividends, will not be deductible. (T. D. 2690; art. 138.)

Where salaries of officers or employees who are stockholders are found to be out of proportion to volume of business transacted or excessive when compared with salaries of like officers or employees of other corporations doing similar kind or volume of business, amount so paid in excess of reasonable compensation for services will not be deductible, but will be treated as distribution of profits. (T. D. 2690; art. 138.)

Compensation paid employee in capital stock of corporation may be deducted as expense if so charged on books at actual value of such stock. (T. D. 2690; art. 139.)

In cases of compensation fixed after services are rendered and not in accordance with any contract or any custom or practice amounting virtually to a contract, reasonableness is ordinarily the controlling test of deductibility. (T. D. 2690; Apr. 10, 1918.)

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Income taxes—Continued.

—— **Deductions from gross income**—Continued.

Test of deductibility in case of compensation payments is whether they are in fact payments purely for services or include some other element; in case of any compensation which exceeds amounts ordinarily paid for like services in like enterprises under like circumstances, burden is upon enterprise to show that amount paid was solely purchase price of services; this test and its particular application further stated and illustrated. (T. D. 2696; Apr. 10, 1918.)

Compensation greater than that ordinarily paid for like services in similar enterprises must be shown to represent payment for services only. (T. D. 2696; Apr. 10, 1918.)

Compensation on whatever basis fixed, representing only the price paid for services pursuant to a fair bargain made in advance between the individual and the business enterprise, is deductible in determining taxable net income of the enterprise. (T. D. 2696; Apr. 10, 1918.)

Payments nominally as compensation for services, which in fact include amounts paid as dividends, waste of corporate assets, payments for property, or for anything other than services, are deductible only to an amount not in excess of compensation for like services in similar enterprises. (T. D. 2696; Apr. 10, 1918.)

—— **Information at source.**

Every person, corporation, etc., paying compensation, wages, etc., of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such compensation, wages, etc., and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Where a person receives a cash compensation for services rendered and in addition thereto living quarters, the value to such person of the quarters furnished constitutes income subject to tax, and return under section 28 is required in each case where cash compensation received plus the value of living quarters furnished equals or exceeds $800 for a tax year. (T. D. 2690; art. 34.)

—— **Withholding.**

The withholding provisions of sections 9 (b) and (c) of the income tax law apply to the normal tax levied upon entire net income of nonresident aliens of a fixed or determinable annual or periodical class, as interest, rent, wages, etc., received by them from all sources within United States; tax to be deducted and withheld from individuals for 1917 and subsequent tax years is the 2 per cent normal tax imposed by the act of September 8, 1916, as amended. (T. D. 2690; art. 43.)

Storekeeper-gaugers.

On and after January 1, 1917, compensation of storekeeper-gaugers designated as general storekeeper-gaugers fixed at rate of $4 per day, together with actual and necessary traveling expenses, except that when aggregate quantity of spirits remaining in charge of general storekeeper-gauger is reduced to 5,000 or less gallons rate of compensation will be $3 per day for such days only as he may be required to visit warehouses for withdrawal of spirits or other necessary purposes. (T. D. 2408; Dec. 7, 1916.)

Rate of pay of officers assigned in dual capacity of storekeeper-gaugers to distillery warehouses at distilleries having registered capacity of more than 20 bushels and to special bonded and general bonded warehouses, fixed at $4 per day, this rate to be applicable in case of distillery warehouse whether distillery is being operated or is under suspension, and as to all warehouses irrespective of quantity of spirits stored therein; when, however, quantity of spirits in warehouse is 5,000 gallons, or less, rate of pay will be fixed at $4 per day for such days only as officer is required to visit warehouse for necessary purposes; this rate of pay to be effective on and after February 1, 1920. (T. D. 2980; Feb. 11, 1920.)

COMPOUND LIQUORS.

See "Rectified Spirits."

COMPROMISE.

Distilled spirits.

Distilled spirits seized because of filing of incorrect return or failure to file return not willful may be released on payment of tax and compromise offer of 25 per cent; payment of tax and compromise offer of 100 per cent required in case of false return or willful failure to file return. Acceptance of such offers is in lieu of forfeiture only. (T. D. 2877; June 27, 1919.)

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Income taxes—Abatement.

When case is compromised in which assessment is involved, amount paid as tax should be credited to list, and amount, if any, remaining outstanding, should be claimed for abatement on Form 47, if terms of compromise so required. (T. D. 2690; arts. 258, 259.)

—— Bad debts.

Where settlement is had by way of compromise whereby amount, less than debt claimed, is accepted in full payment and satisfaction, difference between amount paid and that claimed is not allowable as deduction for bad debts; where settlement consists of promise to pay amount less than debt, amount promised forms basis of new transaction, and upon failure to make good such promise question will arise as to deductibility of new amount only. (T. D. 2690; art. 8.)

—— Damages.

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918. T. D. 2690, art. 4, revoked.)

Violation of statute.

Any violation of law or regulations which is violation of act of August 10, 1917, only, can not be made subject of compromise by Commissioner of Internal Revenue, under section 3229, Revised Statutes, which section is applicable to offenses arising under the internal-revenue laws only. (T. D. 2559; Oct. 26, 1917.)

CONCERTS.

Admissions—Cabarets.

The words "cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, include every hotel, or room therein, restaurant, hall, or other public place, at or in which, in connection with service or sale of food or other refreshments or merchandise, any vaudeville or other performance or diversion in way of acting, singing, declamation, or dancing, either with or without instrumental or other music, is conducted; every form of entertainment so conducted is included, except that furnished by orchestras such as were usual in hotels and restaurants before advent of cabarets, performing instrumental music only, unaccompanied by any other form of entertainment. (T. D. 2681; Mar. 26, 1918.)

CONDEMNATION OF PROPERTY.

See "Requisition of Property."

Income taxes—Deductions.

Property destroyed by order of authorities of State or of United States may be claimed as a loss; if reimbursement is made, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

—— Net income.

Actual cost of property destroyed by order of authorities of a State or of the United States may be claimed as a loss; but if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

CONDITIONAL SALES.

Excise taxes—Time tax attaches.

In case of conditional sale, where title is reserved until payment of purchase price in full, excise tax imposed by act of October 3, 1917, attaches upon such payment, or when title passes if before completion of payments. (T. D. 2719; Art. IV.)

Income taxes.

Where corporation sells property on installment plan, title passing at time of sale, gain to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired

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Income taxes—Continued.

prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

Corporation selling merchandise on installment basis, title passing to vendee at time of sale, will treat such contracts as accounts receivable and as sales during the year at their face value, accounting for as income the difference between the cost and sales price. (T. D. 2690; art. 120.)

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if, for any reason, vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

Where buyer of property of corporation sold on installment plan, title passing at time of sale, forfeits his contract and fails to meet any of the payments contracted to be made, selling corporation may deduct from its gross income as a loss, such proportion of defaulted payments as was previously returned as gross income. (T. D. 2690; art. 116.)

CONSOLIDATED CORPORATIONS.

Issue of stock—Stamp tax.

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Transfer of stock—Stamp tax.

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

CONSOLIDATED RETURNS.

Affiliated corporations.

See "Excess Profits Tax."

CONTRACTS.

Governmental purposes—Bonds.

Bonds given to a State, township, county, or village, covering contracts for governmental purposes or the protection of the State, township, county, village, or municipality, in any respect, are free from Federal taxation. (T. D. 2624; Dec. 14, 1917.)

—— Telegraph, telephone, and radio messages.

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under a cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

—— Transportation charges.

Where contractor does work for Government, contract price of which is a lump sum, exemption provided for by section 502 of act of October 3, 1917, does not apply to amounts paid for transportation of property used or to be used by the contractor in connection with the work. (T. D. 2676; Mar. 18, 1918.)

Where contract price of work for the Government is cost plus certain percentage, amount received by carrier for transportation of property used or to be used by contractor in such work falls within exemption from tax imposed by section 500 of act October 3, 1917; certificate specified in Regulations No. 42, article 15, must be used and must be signed by a Government officer or employee, certificate signed by contractor not being sufficient. (T. D. 2742; July 1, 1918.)

Exemption may be claimed under section 500 of act October 3, 1917, on amounts paid for transportation of persons employed by contractor working for Government under cost-plus contract, where transportation charge of employee is an item in the cost of the work, and hence will be finally paid by the Government; form of exemption certificate. (T. D. 2742; July 1, 1918.)

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Income taxes—Contracting company.

In the case of corporations engaged in contracting operations and which have numerous uncompleted contracts, which in some cases run for periods of year, percentage of profit from contract may be estimated on basis of percentage of completion and payments made thereon, in which case income to be returned each year during performance of contract will be computed upon basis of expenses incurred on such contract during the year; all under or over statements of income to be adjusted upon completion of contract and return made accordingly, where contracts are fully performed in one year income resulting from performance shall be returned for year in which actually earned and determined. (T. D. 2690; art. 121.)

—— State officers or employees.

Individual who contracts with State or any political subdivision thereof, for doing of specific things, completion of which will constitute fulfillment of contract on part of such individual, is not an officer or employee of the State, or political subdivision thereof, within section 4 of the income-tax law, and amount received by him is to be accounted for as income. (T. D. 2690; art. 4.)

Stamp taxes—Corporate stock, issuance.

Stamp tax does not apply to contract or agreement by corporation to issue stock. (T. D. 2599; Dec. 3, 1917.)

—— Sales.

Contract for sale of real estate, providing for future delivery by deed, is not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

The term "contract of sale" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes all sales or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales." (T. D. 2608; Nov. 30, 1917.)

Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Services.

Contracts for performance of services are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

COOPERATIVE ORGANIZATIONS.

Capital stock tax.

Capital stock tax does not apply to mutual or cooperative telephone company, income of which consists solely of assessments, dues and fees collected from members for sole purpose of meeting its expenses. (T. D. 2750, art. 12; Aug. 9, 1918.)

Tax does not apply to domestic building and loan associations and cooperative banks with no capital stock organized and operated for mutual purposes and without profit. (T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes.

Cooperative associations, in order to come within the exemption provided in paragraph "Eleventh" of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that for their own account, they have no net income, business being to market products of their members, and that entire proceeds of such marketing less necessary selling expenses are turned back or paid to members on basis of quantity of produce furnished by them—quality and grade being considered—as purchase price of such produce; if such associations purchase for cash articles of produce with view to selling for gain, it will be held that such associations are organized for profit and they will be held taxable. (T. D. 2690; art. 75.)

Cooperative dairy companies or associations, not having capital stock and engaged in collecting milk and disposing of same or products thereof, and distributing proceeds of business, less necessary operating expenses, among their patrons, upon basis of quantity of butter-fat in milk furnished by such patrons, are exempt from tax; if company purchases milk at stipulated price and disposes of same, or its

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Income taxes—Continued.

products, at a profit, and such profit inures to benefit of company or its members on any basis other than butter-fat content of milk furnished, such company will come within requirements of law and will be subject to tax. (T. D. 2690; art. 76.)

Cooperative societies, associations or corporations which make periodical refund to members or to prospective members or to patrons generally, in proportion to purchases made by recipient, are not within any of the exceptions or exemptions of act September 8, 1916, as amended by act October 3, 1917, and are subject to its provisions. (T. D. 2737; June 19, 1918.)

Where refund payments are made in accordance with by-laws or published rules regularly adhered to, they are to be regarded as discounts or rebates, tending to reduce the taxable net income of the organization. (T. D. 2737; June 19, 1918.)

Periodical refunds by cooperative organizations, which are sometimes called "dividends," are wholly different from ordinary dividends based on stock holdings and need not be listed as income by recipient; where recipient claims right to deduct as business expenses any expenditures on which refund is based, sum claimed as deduction must be reduced in proportion to refund received. (T. D. 2737; June 19, 1918.)

Refund payments made by a cooperative organization in accordance with by-laws or published rules regularly adhered to, should appear as added item of cost in detailed schedule of cost items submitted with the organization's return of income. (T. D. 2737; June 19, 1918.)

Stamp tax on insurance policies.

Merely incidental profit earned by way of interest on its invested safety funds or on its bank balance does not change purely mutual character of company or indicate that its business, though thus earning a profit, is "carried on for profit," so as to require the stamping of policies under act October 22, 1914. (T. D. 2743; July 2, 1918. Ct. Dec.)

COPIES.

Excess profits and income tax returns.

See "Excess Profits Taxes"; "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

COPYRIGHTS.

Excess profits tax—Invested capital.

Copyrights paid in for stock or shares must be valued at either actual cash value at the time of payment or the par value of the stock or shares issued therefor, whichever is lower. (T. D. 2694; art. 56.)

Rules governing cases where stock or shares (or stock or shares and bonds or other obligations) have, prior to March 3, 1917, been issued for a mixed aggregate of tangible property, patents and copyrights, and good will or other intagible property, stated. (T. D. 2694; art. 59.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property. (T. D. 2694; art. 66.)

Patents and copyrights, and good will, trade-marks, trade brands, franchises and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

Income taxes—Invested capital.

Amounts expended for securing copyright and plates which remain in possession of and as property of person making payments are investments of capital and can not be allowed as deductions. (T. D. 2690; art. 8.)

CORDIALS.

See "Wines."

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CORPORATIONS.

Capital stock—Issue—Stamp tax.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issues of certificates representing stock never before issued, no matter when authorized. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, applies to issue of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Where corporation issues preferred stock in place of common, or one kind of preferred stock in place of another kind of preferred stock, or stock without par value in place of stock with par value, tax imposed by act October 3, 1917, applies, even though total outstanding stock is not thereby increased. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York banking law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752; Aug. 14, 1918.)

A stock certificate is a document which is evidence of the number of shares of stock which the holder of it owns, and the stamp tax is laid not on each stock certificate that is issued but on each original issue of certificates. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

A corporation engaged in organization is deemed to issue stock when it obtains subscription for it. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

Issue of certificates of preferred or no par value stock in lieu of outstanding certificates of common stock, or vice versa, is not an original issue of stock. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

So-called business property investment bond, wherein it is certified that the holder thereof is the owner of interest in certain specified real property, legal title to which was previously conveyed to a trustee, and whereby corporation issuing same agrees to manage the property and distribute proceeds in certain manner, is not subject to tax as a certificate of stock. (T. D. 2795; Feb. 26, 1919.)

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, is measured, not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

—— Transfer—Stamp taxes.

Tax imposed by act October 3, 1917, on transfer of capital stock, applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting trust, certificates, to transfer of shares in so-called Massachusetts trusts and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law

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Capital stock—Continued.

—— **Transfer—Stamp taxes**—Continued.

for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to the same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, does not apply to transfer of "rights" to subscribe for stock, prior to exercise of the right, and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, does not attach to exchange of stock certificates of merged corporation for stock certificates of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for old certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, is measured, not by amount paid in, on, or for the stock, but by the face or par value, in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise, in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

Sale by Alien Property Custodian of shares or certificates of stock, under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, his agreement so to sell, and his transfer of legal title to certificates or shares so sold, are not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Transfer to Alien Property Custodian of shares or certificates of stock in compliance with demand made by him under the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII, act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Capital stock tax.

See "Capital Stock Tax."

Definitions—"Corporation."

The term "corporation," as used in war excess profits tax regulations, includes joint-stock companies or associations, no matter how created or organized, insurance companies, and limited partnerships, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 2.)

"Corporation" or "corporations," as used in Regulations No. 33, relating to income tax, construed to include all corporations, joint-stock companies and associations, and all insurance companies coming within the terms of the law, as well as all business trusts organized or created to engage in commercial or industrial enterprises, capital of which is evidenced by certificates or shares of interest issued or issuable to members on the basis of which profits are distributed or distributable. (T. D. 2690; art. 57.)

——"Dividend."

The term "dividend," within the income tax law, means any distribution made or ordered to be made by a corporation, joint-stock company or association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its shareholders whether in cash or in stock of the corporation, joint-stock company or association, or insurance company. (T. D. 2690; art. 106.)

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Definitions—Continued.

—— **"Dividend"**—Continued.

The term "dividend," as used in war excess profits tax regulations, has the same meaning as in section 31 of the act of September 8, 1916, as amended by the act of October 3, 1917, to wit, any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its stockholders, whether in cash or in stock, which stock dividends shall be considered income, to the amount of earnings or profits so distributed; unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 9.)

The act of September 8, 1916, and the act of October 3, 1917, in excluding dividends declared out of earnings or profits that accrued prior to March 1, 1913, are not intended to be declaratory of the meaning of the term "dividends" in the act of October 3, 1913. (T. D. 2731; June 11, 1918. Ct. Dec.)

A dividend declared and paid by one corporation in the stock of another is not a "stock dividend" within the accepted meaning of that term. (T. D. 2732; June 11, 1918. Ct. Dec.)

—— **"Foreign corporation."**

The term "foreign corporation," as used in article 35 of Regulations No. 33. Revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

—— **"Limited partnership."**

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liabillty of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

Estate tax—Bonds.

Actual interest on bonds owned by decedent accrued to day of death must be returned as a portion of the gross estate. (T. D. 2483; Apr. 20, 1917.)

Under section 202 of act of September 8, 1916, bonds, both foreign and domestic, owned by nonresident decedents, which bonds are physically situate in the United States, Hawaii, or Alaska at the time of the owner's death, must be returned as a portion of the gross estate; where bonds are physically situate outside of the United States, Hawaii, or Alaska, they need not be so returned; bonds owned by residents are taxable, regardless of where situate at time of owner's death. (T. D. 2530; Oct. 4, 1917.)

—— **Dividends.**

There should be included in gross estates the entire dividend declared prior to day of death on stock owned by decedent at time of death, whether received before or after that day; no part of dividend declared after death should be included in the gross estate. (T. D. 2483; Apr. 20, 1917.)

—— **Duties of transfer agents, etc.**

The 30-day notice must be filed for dividends declared prior to the day of death, and for interest payable after death to the extent of the portion accrued to the day of death, and if notice be filed either within 30 days from death or immediately upon receipt of order for transfer or payment, transfer or payment need not be postponed; if tax is not paid within legal period, proceedings will be instituted under section 208 of the act of September 8, 1916, for the sale of the property and the payment of the tax. (T. D. 2490; May 14, 1917.)

The 30-day notice will show the name and address at time of death of the nonresident decedent, and description and valuation of the property to be transferred and paid, and the name, designation, and address of the person to whom transfer or payment is made, and will be signed by the proper officer or agent of the corporation. (T. D. 2490; May 14, 1917.)

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Estate tax—Continued.

—— **Duties of transfer agents, etc.**—Continued.

The 30-day notice must be filed when the corporation, its transfer agent, register, or paying agent is called upon to make transfer of stock or bonds, or to pay interest or dividends to any person succeeding in right thereto a stockholder or bondholder who, since September 8, 1916, has died, domiciled outside the United States, Hawaii, or Alaska. (T. D. 2490; May 14, 1917.)

Where transfer of stock or bonds or payment of dividends or interest theretofore legal property of decedent, whether resident or nonresident, is made to or upon order of an executor or administrator, acting under letters granted in the United States, Hawaii, or Alaska, the corporate agent or officer will not be required to file the 30-day notice, make return, or pay tax. (T. D. 2490; May 14, 1917.)

—— **Nonresident decedents owning stock.**

Transfer agents of corporate stock or bonds, receiving into possession for transfer purposes such personalty of nonresident decedent, may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Securities such as shares of stock in domestic corporations which are property within the United States within the meaning of Title II of the act of September 8, 1916, deposited by an individual not resident within the United States with the British Treasury, for which certificates of deposit were issued, are at the death of such nonresident, if such certificates have not been transferred, a part of his gross estate and subject to estate tax. (T. D. 2772; Nov. 8, 1918.)

Excess profits tax.

See "Excess Profits Tax."

Excise taxes—Action to recover.

Though what is necessary expense of operation and what is reasonable allowance for property depreciation are ultimately questions of fact, so far as they involve legal questions they are absolutely judicial questions, and declaration in suit to recover tax which fails to show making of new assessment by Commissioner of Internal Revenue is therefore not demurrable. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

Section 38 of the act of August 5, 1909, does not make remedy by way of reassessment by Commissioner of Internal Revenue exclusive of all other remedies for collection of excise tax, and suit may be brought under section 3213, Revised Statutes, in any proper form of action, before any circuit or district court of United States for district within which liability to tax is incurred or where party from whom tax is due resides at time of commencement of action, without any such reassessment. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

Where declaration in action to recover tax expressly avers that alleged deductions were not reasonable allowances for depreciation, if more definite or detailed information is needed to enable defendant to plead or prepare for trial, remedy is by bill of particulars. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

—— **Brokerage business.**

The case of Altheimer & Rawlings Investment Co. *v.* Allen holds that a corporation which did a brokerage business and bought securities for customers who paid only part of the price, paying interest on balances, corporation also paying for securities purchased only part of the price and paying interest on balances, including in return of gross income difference between interest received and interest paid, made incorrect return; interest received by corporation from its customers should be included in gross income and interest paid by the corporation on said purchases is allowable as interest payable on its bonded or other indebtedness. (T. D. 2441; Feb. 8, 1917. T. D. 2686; Apr. 1, 1918. Ct. Decs.)

—— **"Doing business."**

The term "doing business," as used in act of August 5, 1909, is that which occupies the time, labor, and attention of man for the purpose of a livelihood or profit; a corporation which has reduced its activities to the owning and holding of property and the disposition of its avails, and doing only the acts necessary to continue their status, is not "doing business," and one which is still active in maintaining its operation for the purpose of continued efforts for profit and gain and such activities as are essential to those purposes is regarded as "doing business." (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

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Excise taxes—Continued.

—— **"False."**

The word "false" as used in the fifth subdivision of section 38 of the act of August 5, 1909, means "untrue" or "incorrect," and does not necessarily mean intentionally or fraudulently false. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

—— **Income.**

Moneys received by corporation in payment for iron ore under contracts made as so-called royalties, held to amount to income so as to bring such payments within scope of corporation-tax act of August 5, 1909. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

Iron-ore leases under consideration in case of United States *v.* Biwabik Mining Co., decided by the Supreme Court of the United States, held not to be conveyances of ore in place, but to be grants of privilege of entering upon, discovering, and developing and removing the minerals from the land (Sargent Land Co. case, 242 U. S., 503, followed). (T. D. 2721; June 4, 1918. Ct. Dec.)

In ascertainment of net income under the corporation excise tax act of 1909, mining corporation is not entitled to deduction against gross proceeds from the mining and treatment of ores to the extent of the gross value of the ore in the ground before it was mined, ascertained in compliance with T. D. 1675. (T. D. 2722; June 4, 1918. Ct. Dec.)

Consideration of entire proceeds of conversion of capital assets as constituting same capital, changed only in form and containing no element of income, although including an increment of value, is inconsistent with general purpose of the corporation excise tax act of 1909. (T. D. 2723; June 4, 1918. Ct. Dec.)

The word "income," as used in the corporation excise tax act of 1909, imports something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax, conveying rather the idea of gain or increase arising from current activities. (T. D. 2723; June 4, 1918. Ct. Dec.)

The gain on a sale of timber acquired by a lumber manufacturing company before January 1, 1909, and converted into money after that date, is income within the meaning of the corporation excise tax act of 1909, but only such portion of the gain as accrued subsequent to December 31, 1908, is taxable. (T. D. 2723; June 4, 1918. Ct. Dec.)

In order to determine whether there has been gain or loss and the amount of the gain, if any, an amount must be withdrawn from the gross proceeds of sale sufficient to restore the capital value that existed on December 31, 1908, notwithstanding any increment of value up to that time had not been entered on the plaintiff's books of account. (T. D. 2723; June 4, 1918. Ct. Dec.)

The corporation excise tax act of 1909 measured the tax by any income received within the year from which the assessment was levied, whether it accrued within that year or in some preceding year while the act was in effect; but it excluded all income that accrued prior to January 1, 1909, although afterwards received while the act was in effect. (T. D. 2724; June 4, 1918. Ct. Dec.)

The act of March 2, 1867, with certain exceptions, taxed only such gains or profits as might be realized from a business transaction begun and completed during the preceding year, but the language of the corporation excise tax act of 1909 is different in material particulars; Gray *v.* Darlington (15 Wall., 63), which construed the former act, is accordingly not controlling. (T. D. 2724; June 4, 1918. Ct. Dec.)

Whether determination of value of capital assets on December 31, 1908, should be made by taking inventory upon basis of market values then existing, or whether entire increment accruing between time of acquiring and time of disposing of assets should be prorated as if it had arisen through a series of gradual and imperceptible augmentations, is matter of detail, to be settled according to best evidence obtainable and in accordance with valid departmental regulations. (T. D. 2724; June 4, 1918. Ct. Dec.)

Sale of stock of another corporation resulted in gain or profit to extent of difference between buying and selling prices, there being no merit in contention that interest should be added to purchase price in order to ascertain its cost, and so much of profits as may be deemed to have accrued subsequent to December 31, 1908, must be treated as part of gross income. (T. D. 2724; June 4, 1918. Ct. Dec.)

Railroad corporation purchasing stock in another corporation for investment prior to January 1, 1909, is taxable with respect to so much of a profit upon the sale of stock as accrued after December 31, 1908. (T. D. 2725; June 4, 1918. Ct. Dec.)

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Excise taxes—Continued.

—— **Income**—Continued.

A steamship company is entitled to deduct from gross income in annual tax returns required by section 38 of the act of August 5, 1909, amounts paid out for ordinary and necessary repairs in the maintenance and operation of its business and property, and in addition a reasonable allowance for depreciation of property, if any. (T. D. 2773; Nov. 8, 1918. Ct. Dec.)

Definition of "paid-up capital stock" by a local State statute is not controlling on a Federal court construing the corporation excise tax act of 1909, which is applicable to all States. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

Where there has been net decrease in reserve funds required to be maintained by insurance company, so much of decrease as is released to general uses of the company and increases its free assets is income to the company. (T. D. 3013; May 3, 1920. Ct. Dec.)

Premiums paid to agents of insurance company but not remitted to company during year are received by the company and should be returned as part of its gross income for year in which paid to its agents. (T. D. 3013; May 3, 1920. Ct. Dec.)

Taxes paid to a State by various corporations upon shares of their stock owned by another corporation are not deductible from gross income of latter corporation as taxes "paid by it," such taxes being not paid by this corporation, but being paid in its behalf by other corporations. (T. D. 2927; Sept. 30, 1919. Ct. Dec.)

Interest paid by corporation on sum representing premiums received from sale of its stock can not be deducted in ascertaining net income subject to tax under section 38 of the act of August 5, 1909. (T. D. 2880; July 3, 1919.)

Indebtedness upon which interest may be taken as a deduction under the act of August 5, 1909, can not be greater than par value of capital stock paid up and outstanding; in computing paid-up capital stock, a surplus created by paying a premium on capital stock subscribed for can not be added in determining indebtedness upon which interest may be deducted. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

Stock dividends are not income within the meaning of the act of August 5, 1909. (T. D. 3006; Apr. 22, 1920. Ct. Dec.)

Cash dividends declared from surplus earned partly before and partly after January 1, 1909, were income to the stockholder for the year in which declared. (T. D. 3006; Apr. 22, 1920. Ct. Dec.)

Where corporation sold bonds at discount during 1906, 1907, and 1908, no deduction from gross income for years 1909, 1910, and 1911, of sums set aside by corporation to pay such discount at maturity of bonds is permitted. (T. D. 2944; Nov. 8, 1919. Ct. Dec.)

In ascertaining net income of a corporation under section 38 of the act of August 5, 1909, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

Insurance companies owning securities taken at market value may not, under section 38 of the act of August 5, 1909, deduct from gross income as depreciation the net decrease in market value of such securities; sums due the United States are a valid offset as against amount found due taxpayer in suit against collector, though included therein are items which Commissioner did not claim to be due the United States when considering the return for assessment purposes. (T. D. 2882; July 3, 1919.)

"Paid-up capital stock," as used in section 38 of the act of August 5, 1909, means such an amount received by the corporation as does not exceed the par value of the outstanding shares, plus amount received for any part-paid stock; such term does not mean the aggregate amount (whether more or less than par value) received by the corporation for the shares, the full-paid stock receipts, and part-paid stock receipts issued by it. (T. D. 2896; July 21, 1919. Ct. Dec.)

Interest which accrued prior to 1909 and was paid in 1911 was not income within the act of August 5, 1909. (T. D. 3048; July 26, 1920.)

In the case of a mutual life insurance company, transacting business on the level-premium plan, the surplus out of which dividends are paid in any year consists of the ascertained overpayments of premiums for the preceding year. Therefore surplus for the year 1909 was received prior to the time the act became effective and dividends paid out of such surplus and applied, at the option of the policyholder, to purchase paid-up additions and annuities or in partial payment of renewal premiums, were not income for the year in which they were applied. The surplus from premiums out of which the dividends for the year 1910 were declared was a

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Excise taxes—Continued.

—— **Income**—Continued.

part of the income for the year 1909 and formed a basis for taxation for that year. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Premiums due and deferred and interest due and accrued but not actually collected in cash within the taxable year are not income "received." (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Interest on policy loans, which by the terms of the contract was added to the principal when it became due, does not constitute income where it remains unpaid by the policyholder. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

The premium receipts of "every insurance company" by whatever name they are called are, unless specifically exempted by the terms of the taxing statutes in question, a part of such company's gross income. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Premium deposits made in advance by members of a mutual insurance company to cover estimated losses and expenses are, so long as the payment thereof constitutes the consideration for contract of insurance, insurance premiums constituting gross income of the company. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Moneys received by way of interest upon bank balances and from investment of such portion of premium deposits as are not currently required for the payment of losses and expenses are profits earned by an insurance company subject to tax. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

—— —— **Depreciation or depletion.**

The term "depreciation of property" is used in act of August 5, 1909, in its ordinary and usual sense as understood by business men; no allowance should be made for depreciation on account of depletion of property by removing ores from mines in question; value of the mine is lessened by the partial exhaustion of the property, but such exhaustion of the body of the ore can not be deemed depreciation. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

Lessee of mining property may not deduct proportionate value of ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct proportionate part of royalty paid in advance. (T. D. 2721; June 4, 1918. Ct. Dec.)

For purpose of determining net income for basis of taxation under the corporation excise tax act of 1909, mining corporation may not deduct from its gross income any amount whatever on account of depletion or exhaustion of ore bodies caused by its operations for year for which tax is assessed. (T. D. 2722; June 4, 1918. Ct. Dec.)

Decreases in the value of assets of an insurance company through amortization of premiums on bonds are mere book adjustments and are not deductible as an item of depreciation. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

—— **Interest on indebtedness.**

According to the case of Boston Terminal Co. *v.* Gill, decided by the circuit court of appeals on October 25, 1917, interest on bonds or other indebtedness is an allowable deduction from gross income only to the amount paid upon bonded or other indebtedness not exceeding the corporation's paid-up capital stock. (T. D. 2671; Mar. 11, 1918. Ct. Dec.)

—— **Liberty bonds.**

Corporation owning Liberty bonds is not, to that extent, exempt from franchise taxes, excise taxes, and other corporation taxes of the United States, and of the several States. (T. D. 2512; June 8, 1917.)

—— **Market value of stock.**

Market value of stock on December 31, 1908, may be determined by an inventory taken as of that date, and the stipulated fact of the market value of the stock on that date may be accepted as supplying the lack of an inventory. (T. D. 2725; June 4, 1918. Ct. Dec.)

—— **Mutual fire insurance companies.**

A corporation, organized to insure its members, limited to jewelers and dealers in goods ordinarily carried in the jewelry trade against loss or damage by fire, theft, barratry, embezzlement, and transportation, which requires each member to deposit in advance a definite sum sufficient to cover estimated losses and expenses for the ensuing year, the balance of such deposits being returned to members, is a mutual fire insurance company and subject to the taxes imposed by the act of August 5, 1909. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

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Excise taxes—Continued.

—— **Nature of tax.**

Tax imposed by act of August 5, 1909, is not an income tax, but is an excise tax, imposed upon doing of business in corporate capacity, and measured in amount by net income, as defined by section 38 of the act. (T. D. 2710; Apr. 22, 1918. Ct. Dec.)

Legislative purpose of corporation excise tax act of 1909 was not to tax property as such, or the mere conversion of property, but to tax the conduct of the business of corporations organized for profit by a measure based upon the gainful returns from their business operations and property from the time such act took effect. (T. D. 2723; June 4, 1918. Ct. Dec.)

—— **Organization for profit.**

Corporations organized under the laws of Minnesota, not for charitable or eleemosynary purposes, but for the pecuniary advantage of their shareholders, are "organized for profit" within the meaning of the corporation-tax law of August 5, 1909. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

Where profit was one of the substantial objects of the organization of a corporation, incorporated to provide and operate a terminal for certain railroads, it is organized for profit within the meaning of the act of August 5, 1909. (T. D. 2671; Mar. 11, 1918. Ct. Dec.)

—— **Public utilities.**

Moneys received for service connections and pipe extensions are not permitted to be deducted from gross amount of income, as they do not come within any of the permitted classes of deductions mentioned in the act of August 5, 1909; moneys so expended are invested in permanent improvements which tend to enhance the rental and the market value of the water system. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

Fact that corporation was a public utilities corporation which, under the laws of the State of California, was not owner of property but merely intrusted with use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, and the act of August 5, 1909, making no exceptions in favor of public utilities. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

—— **Refund.**

Under the provision of section 14, paragraph (a), act September 8, 1916, that upon examination of any return of income made pursuant to Title I, the act of August 5, 1909, and act of October 3, 1913, if it shall appear that amounts of tax have been paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding provisions of section 3228 of the Revised Statutes, claims for refund which have once been rejected by the Commissioner because of the statute of limitation in existence at that time may be reopened; claims rejected can also be reopened if the question involves an examination of the return (T. D. 2396; Nov. 1, 1916.)

Evidence sustaining allegations of incorrectness in returns by corporations subject to tax imposed by act of August 5, 1909, need not be set out in the declaration suit to recover such tax. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

According to decision in case of Chicago & Alton Railroad Co. *v.* United States, decided by Court of Claims, December 3, 1917, where railroad company sold bonds and equipment notes at discount in 1906 and books showed that loss was entirely charged off under profit and loss account for that year, and company in making returns under act of August 5, 1909, for purpose of assessment of excise tax for years 1911 and 1912, failed to deduct proportionate amount of discount sustained, it has no right to refund of such amount. (T. D. 2631; Jan. 19, 1918. Ct. Dec.)

According to the decision in the case of Camp Bird (Ltd.) *v.* Howbert, decided by circuit court of appeals, at the December term, 1917, a corporation which understated in its original return the amount for which it was subject to tax may not recover any part of a second assessment paid, although original return was made in good faith and without any intention to escape lawful tax. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

Filing of amended returns does not constitute beginning of new proceedings which so supersede the original returns as to remove bar imposed by sections 3227, 3228, Revised Statutes, against claims by taxpayers for refund of taxes paid upon original returns and assessments. (T. D. 3013; May 3, 1920. Ct. Dec.)

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Excise taxes—Continued.

—— **Reserve funds.**

Reserve funds required by rules and regulations of State insurance departments, promulgated in the exercise of appropriate power conferred by statute, are reserve funds "required by law" within meaning of taxing acts. (T. D. 3013; May 3, 1920. Ct. Dec.)

Assets required to be held by insurance company to meet ordinary running expenses, such as taxes, salaries, reinsurance, and unpaid brokerage, are not reserve funds "required by law" for purpose of determining whether there has been net addition to reserve funds within the year. (T. D. 3013; May 3, 1920. Ct. Dec.)

According to the decision of the Supreme Court of the United States, in the case of McCoach *v.* Insurance Co. of North America, decided at the October term, 1916, fire insurance companies are not required by law of Pennsylvania to hold a reserve against unpaid losses, within the meaning of the act of August 5, 1909. (T. D. 2501; June 18, 1917. Ct. Dec.)

The words "reserve funds," as used in act of August 5, 1909, have reference to the funds ordinarily held as against the contingent liability on outstanding policies. (T. D. 2501; June 18, 1917. Ct. Dec.)

The reserve funds, the net addition to which is to be deducted from the gross income of a life insurance company in computing its net income, are those funds which are built up to mature the policy, and do not include funds reserved because of liabilities on supplementary contracts not involving life contingencies and canceled ploicies upon which a cash-surrender value may be demanded. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

—— **Retroactive operation of statute.**

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

—— **Selling corporations.**

The transfer of the output of a manufacturing corporation to a selling corporation, of which its owns all the capital stock, is a sale within the meaning of the act of October 3, 1917, subjecting the manufacturing corporation to a tax, provided the price at which articles are sold or charged to the distributing corporation is no less than is charged to independent outside distributors under similar conditions. (T. D. 2547; Oct. 22, 1917.)

In case of selling corporation owning substantially all the stock of a manufacturing corporation which nominally sells all or part of its products to selling corporation, manufacturing corporation is regarded as a manufacturing agent, and taxable sales are those made by selling corporation. (T. D. 2719; Art. V.)

—— **Terminal railway company.**

Where terminal railway company, organized to perform terminal services for for railroad companies which own its stock, and such railroad companies which own its stock, and such railraod companies and a trust company enter into such arrangement whereby trust company made a loan to such terminal company, secured by pledge by railroad companies of the stock, latter companies agreeing to pay annual interest and sinking fund requirement of loan, evidenced by bonds secured by mortgage on terminal company's property, payments of installments of interest and sinking fund were but payments of rent by railroad companies to terminal company to be accounted for as part of its income, as rent would be, though made direct to trust company. (T. D. 2710; Apr. 22, 1918. Ct. Dec.)

Floor tax—Retail stock.

Where bookkeeping and stock keeping of wholesale and retail departments of establishments are kept separate, they will be regarded as if they were separate and distinct departments, and retail stock will not be subject to floor tax. (T. D. 2547; Oct. 22, 1917.)

Income taxes.

See "Income Taxes (Corporations)."

—— **Stockholders.**

See "Income Taxes (Individuals)."

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"Person" includes, when.

The word "person" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

Stamp taxes—Articles of incorporation.

Articles of incorporation are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

—— Bonds.

Instruments containing essential features of promissory note but issued by corporations in numbers, under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in care of bearer bonds, for authentication by trustee, and sometimes for redemption before maturity, or similar provisions, are bonds within meaning of Schedule A of Title VIII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

Bonds of a private corporation delivered by it to the United States Housing Corporation as collateral security for a loan to aid the borrower in performing its contract with the United States Housing Corporation are subject to stamp tax. (T. D. 2782; Dec. 24, 1918.)

—— Charters.

Applications for issuance of corporate characters are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

—— Contract to issue stock.

Stamp tax does not apply to contract or agreement by corporation to issue stock. (T. D. 2599; Dec. 3, 1917.)

—— Interim certificates.

Issues of interim certificates pending stock issue of corporation organized or reorganized on and after October 4, 1917, are subject to tax of 5 cents on each $100 face value or fractional part thereof; subsequent exchange of such interim certificates for regular stock certificates to same owner will not be subject to tax. (T. D. 2584; Nov. 20, 1917.)

—— Sales or transfers of stock.

Transfer of shares of certificates of stock in any corporation, made by the person loaning stock to another borrowing such stock to effect a sale, and also transfer of shares or certificates of stock from a borrower returning them to lender, in fulfillment of borrower's obligation to buy in and return stock, are both subject to tax imposed by sections 800 and 807 of the act of October 3, 1917; in so-called short-sale transaction, there are four taxable sales or transfers: (1) Sale of stock by person making short sale; (2) transfer from lender of stock to person making short sale, (3) purchase by borrower of stock to return to lender, (4) transfer by borrower to lender of shares to replace those borrowed. (T. D. 2685; Mar. 30, 1918.)

Stock sales—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Amount of tax.

Tax of 5 cents on each $100 of face value or fraction thereof attaches to original issue of each certificate of stock, and tax of 2 cents on each $100 of face value or fraction thereof to each transfer or sale of stock, whether transfer is made before or after issuance of original certificate. (T. D. 2599; Dec. 3, 1917.)

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Stock sales—Continued.

—— **Exempt transactions.**

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfer to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members: no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memorandum of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer a memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depository; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

COSMETICS.

Excise taxes.

See "Excise Taxes."

COST-PLUS CONTRACTS.

Government work—Messages.

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under a cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

—— **Transportation tax.**

Exemption may be claimed under section 500 of act October 3, 1917, on amounts paid for transportation of persons employed by contractor working for Government under cost-plus contract, where transportation charge of employee is an item in the cost of the work, and hence will be finally paid by the Government; form of exemption certificate. (T. D. 2742; July 1, 1918.)

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Government work—Continued.

—— **Transportation tax**—Continued.

Where contract price of work for the Government is cost plus certain percentage, amount received by carrier for transportation of property used or to be used by contractor in such work falls within exemption from tax imposed by section 500 of act October 3, 1917; certificate specified in Regulations No. 42, article 15, must be used and must be signed by a Government officer or employee, certificate signed by contractor not being sufficient. (T. D. 2742; July 1, 1918.)

COSTUMES.

Income taxes—Depreciation.

Costumes purchased and used exclusively in production of a play and which are not adapted for occasional personal use and are not so used, are part of the equipment of a business, and as such, subject to depreciation in value on account of wear and tear arising from their use in the business; reasonable allowance for such depreciation may be claimed. (T. D. 2690; art. 8.)

COTTON FUTURES.

Stamp tax.

Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

COUNTIES.

Definition.

The word "State," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns and other municipalities. (T. D. 2676; Mar. 18, 1918.)

Official bonds—Taxability.

Bonds given by officials of a State, township, county, or village, for faithful performance of duties, are free from Federal taxation on broad ground that sovereign States and subdivisions thereof are constitutionally free from taxation by Federal Government. (T. D. 2624; Dec. 14, 1917.)

Taxes—Deductions from gross income.

Taxes imposed against a corporation by authority of any county (not including those assessed against local benefits), and paid within year for which return is made, are deductible from gross income of domestic corporation; similar taxes with like exceptions assessed against and paid by foreign corporation receiving income from any source within United States are deductible from gross income received from such source, except that taxes imposed by foreign Government and paid by foreign corporations are not deductible from gross income received from sources within United States. (T. D. 2690; art. 191.)

COURT DECISIONS.

Adulterated butter.

New York Butter Packing Co. *v.* Edwards. (T. D. 2803; Mar. 12, 1919.)

Bankers—Special tax.

Anderson *v.* Farmers Loan & Trust Co. (T. D. 2460; Mar. 17, 1917.)

Fidelity Trust Co. of Baltimore *v.* Miles. (T. D. 2895; July 21, 1918.)

Collectors—Suits to recover taxes collected.

Philadelphia, Harrisburg & Pittsburgh Railroad Co. *v.* Lederer. (T. D. 2507; July 2, 1917.)

Corporation excise tax.

Altheimer & Rawlings Investment Co. *v.* Allen. (T. D. 2441; Feb. 8, 1917. T. D. 2686; Apr. 1, 1918.)

Boston & Maine Railroad *v.* United States. (T. D. 3004; Apr. 21, 1920.)

Boston Terminal Co. *v.* Gill. (T. D. 2428; Dec. 30, 1916. T. D. 2671; Mar. 11, 1918.)

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Corporation excise tax—Continued.

Camp Bird (Ltd.) *v.* Howbert. (T. D. 2366; Sept. 12, 1916. T. D. 2661; Mar. 5, 1918.)
Chicago & Alton Railroad Co. *v.* United States. (T. D. 2631; Jan. 19, 1918.)
Doyle *v.* Mitchell Bros. Co. (T. D. 2723; June 4, 1918.)
Fink *v.* Northwestern Mutual Life Insurance Co. (T. D. 3057; Aug. 16, 1920.)
Goldfield Consolidated Mines Co. *v.* Scott. (T. D. 2722; June 4, 1918.)
Hays *v.* The Gauley Mountain Coal Co. (T. D. 2724; June 4, 1918.)
Houston Belt & Terminal Railway Co. *v.* United States. (T. D. 2710; Apr. 22, 1918.)
Jewelers Safety Fund Society *v.* Lowe. (T. D. 3078; Oct. 13, 1920.)
McCoach *v.* Insurance Company of North America. (T. D. 2501; June 18, 1917.)
Maryland Casualty Co. *v.* United States. (T. D. 3013; May 3, 1920.)
Northern Pacific Railway Co. *v.* Lynch. (T. D. 3048; July 26, 1920.)
Roberts *v.* Lowe. (T. D. 2394; Nov. 14, 1916.)
San Francisco & Portland Steamship Co. *v.* Scott. (T. D. 2773; Nov. 8, 1918.)
Southern Pacific Railroad Co. *v.* Muenter. (T. D. 2944; Nov. 8, 1919.)
Union Hollywood Water Co. *v.* Carter. (T. D. 2475; Apr. 4, 1917.)
United States *v.* Aetna Life Insurance Co. (T. D. 2927; Sept. 30, 1919.)
United States *v.* Biwabik Mining Co. (T. D. 2721; June 4, 1918.)
United States *v.* Cleveland, Cincinnati, Chicago & St. Louis Railroad Co. (T. D. 2725; June 4, 1918.)
United States *v.* Nashville, Chattanooga & St. Louis Railway. (T. D. 2697; Apr. 16, 1918.)
United States *v.* New York, New Haven & Hartford Railroad Co. (T. D. 2896; July 21, 1919.)
United States *v.* Philadelphia, Baltimore & Washington Railroad Co. (T. D. 3006; Apr. 22, 1920.)
Von Baumbach *v.* Sargent Land Co. (T. D. 2436; Jan. 19, 1917.)

Distilled spirits.

Mayes *v.* Casey. (T. D. 2757; Sept. 5, 1918.)
United States *v.* Mincey. (T. D. 2776; Dec. 11, 1918.)

Estate tax.

Lederer *v.* Northern Trust Co. (T. D. 3027; June 2, 1920.)
Lederer *v.* Pearce. (T. D. 3088; Oct. 30, 1920.)
New York Trust Co. *v.* Eisner. (T. D. 2976; Feb. 11, 1920.)

Excess profits tax.

Cartier-Holland Lumber Co. *v.* Doyle. (T. D. 3080; Oct. 19, 1920.)
La Belle Iron Works *v.* United States. (T. D. 3051; July 27, 1920.)

Forfeitures.

United States *v.* One Saxon Automobile. (T. D. 2789; Feb. 10, 1919.)

Income taxes.

Brady *v.* Anderson. (T. D. 2494; June 2, 1917.)
Crocker *v.* Malley. (T. D. 2720; June 4, 1918. T. D. 2816; Apr. 2, 1919.)
De Ganay *v.* Lederer. (T. D. 2876; June 25, 1919.)
Eisner *v.* Macomber. (T. D. 3019; Apr. 26, 1920. T. D. 3052; Aug. 4, 1920.)
Gulf Oil Corporation *v.* Lewellyn. (T. D. 2783; Jan. 7, 1919.)
Jackson *v.* Smietanka. (T. D. 2960; Jan. 7, 1920.)
Jewelers Safety Fund Society *v.* Lowe. (T. D. 3078; Oct. 13, 1920.)
Lederer *v.* Penn Mutual Life Insurance Co. (T. D. 2899; July 24, 1919.)
Lewellyn *v.* Gulf Oil Corporation. (T. D. 2542; Oct. 19, 1917.)
Lynch *v.* Hornby. (T. D. 2731; June 11, 1918.)
Lynch *v.* Turrish. (T. D. 2729; June 11, 1918.)

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Income taxes—Continued.

Maryland Casualty Co. *v.* United States. (T. D. 2451; Feb. 20, 1917.)
Mente *v.* Eisner. (T. D. 3029; June 9, 1920.)
Peabody *v.* Eisner. (T. D. 2732; June 11, 1918.)
Penn Mutual Life Insurance Co. *v.* Lederer. (T. D. 3046; July 19, 1920.)
Prentiss *v.* Eisner. (T. D. 2933; Oct. 9, 1919. T. D. 3050; July 27, 1920.)
Southern Pacific Co. *v.* Lowe. (T. D. 2730; June 11, 1918.)
Towne *v.* Eisner. (T. D. 2506; June 28, 1917. T. D. 2634; Jan. 21, 1918.)
United States *v.* Coulby. (T. D. 2858; June 9, 1919.)
United States *v.* McHatton. (T. D. 3043; July 2, 1920.)
Weiss *v.* Mohawk Mining Co. (T. D. 3001; Apr. 15, 1920.)
West End Street Railway Co. *v.* Malley. (T. D. 2620; Dec. 17, 1917.)
William E. Peck & Co. (Inc.) *v.* Lowe. (T. D. 2726; June 4, 1918.)

Inheritance taxes.

Coleman *v.* United States. (T. D. 3007; Apr. 22, 1920.)
Henry *v.* United States. (T. D. 3008; Apr. 22, 1920.)
Rand *v.* United States. (T. D. 2886; July 10, 1919.)
Sage *v.* United States. (T. D. 2885; July 10, 1919.)

Munition manufacturers' tax.

Carbon Steel Co. *v.* Lewellyn. (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920.)
Forged Steel Wheel Co. *v.* Lewellyn. (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920.)
Worth Bros. Co. *v.* Lederer. (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920.)

Narcotics.

Doremus *v.* United States. (T. D. 3085; Oct. 27, 1920.)
Thompson *v.* United States. (T. D. 2887; July 12, 1919.)
United States *v.* Doremus. (T. D. 2809; Mar. 20, 1919.)
United States *v.* O'Hara. (T. D. 2392; Nov. 6, 1916.)
United States *v.* Osborn. (T. D. 2489; May 11, 1917.)
Webb *v.* United States. (T. D. 2809; Mar. 20, 1919.)

Priorities of taxes.

Smietanka *v.* Zibell. (T. D. 3000; Apr. 10, 1920.)

Searches and seizures.

Silverthorne Lumber Co. *v.* United States. (T. D. 2984; Feb. 25, 1920.)

Shows or exhibitions—Special tax.

Redpath Lyceum Bureau *v.* Pickering. (T. D. 2684; Mar. 28, 1918.)

Stamp taxes.

Edwards *v.* Wabash Railway Co. (T. D. 3002; Apr. 20, 1920.)

CREDITS.

Income taxes—Net income.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

CROPS.

See "Agriculture"; "Farmers."

CULINARY EXTRACTS.

See "Extracts."

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CUSTOMS DUTIES.

Income taxes—Deductions.

Import or tariff duties levied by Congress and paid to proper customs officers are deductible as taxes imposed under authority of United States, provided they are no added to and made a part of the cost of articles of merchandise, with respect to which they are paid, in which case they will be reflected in cost of merchandise and can not be separately deducted. (T. D. 2690; art. 195.)

CYCLONE INSURANCE.

See "Insurance."

DAMAGES.

Excess profits tax.

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held and pending disposition thereof, accounting for gain or loss may deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to Commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Income taxes.

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918. T. D. 2690; art. 4, revoked.)

When corporation as result of suit or otherwise secures payment for damages which it may have sustained, and amount of such payment is in excess of an amount necessary to make good the damage or damaged property, amount of such excess shall be considered and returned as income for year in which received; if entire or estimated amount of damage shall have been previously charged off and deducted from gross income, then amount recovered shall be returned as income; if amount recovered is less than damage sustained, or less than amount necessary to make good the damage, difference between actual amount of damage sustained and amount recovered will be deductible as a loss. (T. D. 2690; art. 94.)

Any amount paid pursuant to judgment or otherwise on account of damages is deductible from gross income to the extent of, and when amount is actually paid, less any amount of such damages as may have been compensated for by insurance. (T. D. 2690; art. 158.)

No deduction from inventory value of merchandise or material will be allowed except where inventory includes goods or materials which, by reason of obsoles-

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Income taxes—Continued.

cence or damage, are unsalable; when such deduction is claimed facts connected therewith, including statement of cost of goods, value at which they were inventoried, and present condition must be filed with return. (T. D. 2690; art. 160.)

Depreciation computed on total invoice cost of merchandise in stock is not an allowable deduction, except that if portion of such merchandise is unsalable by reason of obsolescence or damage, depreciation deduction not in excess of decline in value during taxable year will be allowed. (T. D. 2690; art. 169.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to Commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

DANCES.

Admission.

See "Admissions."

DEALER.

Definition.

The term "dealer," as used in Article XXXVII of Regulations No. 44, relating to war excise taxes and war tax on beverages, does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

Particular articles.

See specific heads.

DEBENTURES.

Definition.

The term "debenture" ordinarily, though not necessarily, refers to an unsecured bond. (T. D. 2713; May 14, 1918.)

Stamp taxes.

Instruments containing essential features of promissory note but issued by corporations in numbers under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in case of bearer bonds, for authentication by trustee, and sometimes for redemption before maturity, or similar provisions, are bonds within meaning of Schedule A of Title VIII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

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DEBTS.

Income taxes—Deductions.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

DECEDENTS' ESTATES.

See "Estates"; "Estate Tax"; "Inheritance Taxes."

DEDUCTIONS.

Allowance in determining tax.

See specific heads.

DEEDS.

Stamp tax.

Contract for sale of real estate, providing for future delivery by deed, is not subject to stamp tax; stamp of face value corresponding with amount representing vendor's equity conveyed should be attached to instrument conveying property; where exchange of equal equities is made, stamp should be attached to each deed corresponding with amount of each equity exchanged; in determining amount of incumbrance on realty being transferred, new incumbrances placed upon realty at time of or after sale should not be considered. (T. D. 2599; Dec. 3, 1917.)

Conveyance of realty to Alien Property Custodian in compliance with demand made by him under trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Conveyance by Alien Property Custodian of realty sold by him under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Trust deeds.

See "Trust Deeds."

DEFINITIONS.

See "Words and Phrases."

DENATURED ALCOHOL.

See "Alcohol."

DEPLETION.

Excess profits tax—Invested capital.

Where through failure to provide for depletion, depreciation, obsolescence, or other expenses or losses, or where for any cause books of account of taxpayer do not show true paid-in or earned surplus and undivided profits, in computation of invested capital such adjustments shall be made as are necessary to arrive at correct amount; where taxpayer claims additions to capital account, books of account will be presumed to show true facts, and burden of proof will rest upon taxpayer, and such additions will be accepted only to extent and under certain specifically stated conditions. (T. D. 2694; art. 64.)

Rules for valuation of tangible property, subject to requirements of article 42 of Regulations No. 41 as to allowance for depletion, depreciation, and obsolescence, stated; presumed that tangible assets were acquired with cash either paid in directly or derived from trade or business, but taxpayer entitled to show that such assets were paid in as tangible property. (T. D. 2694; art. 67.)

—— Losses.

Basis of computation of invested capital is found in amount of cash and other property paid in, which computation must take properly into account surplus and undivided profits; in computation of such surplus and undivided profits; recognition must first be given expenses incurred and losses sustained from original organization of business concern down to taxable year, including reasonable allowance for depletion, depreciation, or obsolescence of property originally acquired; if

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Excess profits tax—Continued.

—— **Losses**—Continued.

value appreciation of kind not subject to income tax (other than that allowed under article 55 of Regulations No. 41) has been taken up in accounts, deduction, must be made in respect of such appreciation; in computation of invested capital for any year full effect must be given to any liquidation of original capital. (T. D. 2694; art. 42.)

Excise taxes—Mining properties.

Lessee of mining property may not deduct proportionate value of ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct proportionate part of royalty paid in advance. (T. D. 2721; June 4, 1918. Ct. Dec.)

For purpose of determining net income for basis of taxation under the corporation excise tax act of 1909, mining corporation may not deduct from its gross income any amount whatever on account of depletion or exhaustion of ore bodies caused by its operations for year for which tax is assessed. (T. D. 2722; June 4, 1918. Ct. Dec.)

Income taxes—Net income.

In case of timberlands, fair market price or value of timber standing March 1, 1913, or cost of timber when purchase was made subsequent to that date, will be basis for calculation of depletion, and this value as of March 1, 1913, or cost when subsequently purchased, is not to be exceeded for purposes of deduction in returns of income; whole of such value is to be distributed over entire amount of standing timber on those respective dates; rules governing timber-owning companies. (T. D. 2690; arts. 8, 173.)

When corporation sets aside part of its earnings to create sinking fund with which to retire indebtedness, annual additions to such fund are not allowable deduction from gross income as or in lieu of depreciation or on any other account; earnings thus set aside are an asset and any accretion thereto must be accounted for as income; ruling will not, however, forbid deduction of reasonable allowance for depletion of natural deposits even though amount so deducted be used in whole or in part in payment of its indebtedness. (T. D. 2690; art. 166.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

In case of operating fee owner, amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date, or actual cost of property if acquired subsequent to that date, plus, in either case, cost of development (other than cost of physical property incident to such development) up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

Estimate, subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient, when multiplied by number of units removed from territory in one year, will determine amount which will be allowable deducted from gross income for that year on account of depletion or as return of invested capital until total of such deduction shall equal capital invested. (T. D. 2690; art. 170.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property, plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited as amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no

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Income taxes—Net income—Continued.

further deductions on either account, with respect to this property and capital invested therein, will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceeding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Ownership of mine content at time for which computation is made is an essential prerequisite to an allowable deduction for depletion, under section 5 (a) and section 12 (a) of Title I of the act of September 8, 1916, as amended; deduction in case of lessee limited to amount equal to capital actually invested in lease without regard to value as of March 1, 1913, or any other date; the seventh and eighth paragraphs of section 5 (a) and the second paragraph of section 12 (a) authorize in case of mine owners two classes of deductions to take care of wasting of assets, namely, depreciation and depletion. (T. D. 2690; art. 171.)

Original cost of mineral deposit may be taken as basis for computing annual depletion deductions if fair market value as of March 1, 1913, can not be ascertained otherwise, allowance being made for minerals which may have been removed prior to that date; where property was acquired subsequent to that date, same rule for computing annual depletion deduction will apply, except that basis of computation will be actual cost rather than value as of March 1, 1913. (T. D. 2690; art. 172.)

Every individual or corporation claiming and making deduction for depletion of natural deposits shall keep accurate ledger account, in which shall be charged fair market value as of March 1, 1913, or cost, if property was acquired subsequent to that date, of mineral deposits involved, account to be credited with amount of depletion deduction claimed and allowed each year, or amount of depletion shall be credited to depletion reserve account, to end that when sum of credits for depletion equals value or cost of property, no further deduction for depletion will be allowed; fair market value or cost of property, as case may be, will be basis for determining depletion deduction for all subsequent years during ownership under which value was fixed, and during such ownership there may be no revaluation if it should be found that estimated quantity of deposit was understated; where quantity of mineral deposit prior to March 1, 1913, can not be accurately estimated, necessary, if depletion deductions are to be taken, for owner of deposits, with best information available to arrive at fair market value of property as of March 1, 1913, which value during

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Income taxes—Net income—Continued.

period of ownership will be final; then, on basis of most probable number of units in property, per unit value shall be determined as basis for computing annual depletion allowances; this method and allowances to be continued until, but not beyond, time when value as of March 1, 1913, shall have been extinguished. (T. D. 2690; art. 172.)

Precise manner in which estimated fair market value of mineral deposits, as of March 1, 1913, shall be made, must be determined by owner upon such basis as must not comprehend any operating profits, estimate to be subject to approval of Commissioner; in passing upon accuracy and fairness of estimate due weight to market value of stock of corporation on March 1, 1913, and also to sworn statements as to value of stock filed at any time thereafter for purposes of special excise tax based on value of capital stock imposed by Title IV of the act of September 8, 1916, will be attached. (T. D. 2690; art. 172.)

Where depletion deduction is computed on basis of cost or price at which any mine, mineral lands or properties were acquired, corporation upon request of Commissioner must show that cost or price at which property was bought was fixed for purposes of bona fide purchase or sale by which property passed to owner in fact as well as in form, different from vendor; in determing whether or not price or cost at which any purchase or sale was made represented actual market value, due weight will be given to relationship or connection existing between party or parties selling property and buyer thereof. (T. D. 2690; art. 172.)

Operator will be permitted to deduct from gross income of each year reasonable allowance for depreciation of all physical property used in connection with operation of mine and owned by operator; for this purpose the actual cost (not value) will be equitably distributed over useful life of such property until true salvage value has been reached; both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depletion reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Where property was acquired by purchase or otherwise (other than by lease) prior to March 1, 1913, amount of invested capital which may be extinguished through annual depletion deductions from gross income will be the market value of mine property so acquired, as of March 1, 1913; value contemplated as basis for depletion deductions must not be based upon assumed salable value of output under current operative conditions, less cost of production, for reason that value so determined would comprehend profits to be realized from operation of property; value must not be speculative but must be determined upon basis of salable value en bloc as of March 1, 1913, of entire deposit of minerals, exclusive of improvements and development work; en bloc value having been ascertained, estimate of number of units (tons, pounds, etc.), should be made, and en bloc value divided by estimated number of units will be determined per unit value, which, multiplied by number of units mined and sold during any one year will determine sum which will constitute deduction of that year; deductions computed on like basis may be made from year to year during ownership under which value was determined until aggregate en bloc value as of March 1, 1913, of mine or mineral deposit shall have been extinguished. (T. D. 2690; art. 172.)

Lessee corporation not entitled to any deduction as such, but if lessee, in addition to royalties, pays stipulated sum for right to explore, develop, and operate mine, such sum may be spread ratably over estimated number of units in mine, and thus ascertain amount of invested capital or bonus payment applicable to each unit; per unit cost thus ascertained will be multiplied by number of units removed from mine during any one year, and result will be amount that may be deducted from gross income of that year as return of capital invested; in case of both mine owner and lessee, no deduction for depletion or return of capital will be allowed when invested capital has, through the aggregate of all such deductions, been extinguished; for purpose of computing this deduction in case of lessee company actual amount of bonus paid and not value as of March 1, 1913, will be considered

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Income taxes—Net income—Continued.

capital invested to be returned through aggregate of annual deductions. (T. D. 2690; art. 172.)

Operator of mining properties, or lessee thereof, required to attach to his return statement setting out certain specified data. (T. D. 2690; art. 172.)

Corporations owning timber land and logging off the timber and manufacturing it into lumber, will, if timber was acquired prior to March 1, 1913, be permitted to exclude from gross income either through deduction from gross receipts or through charge into cost of manufacturing timber into lumber, an amount equivalent to fair market price or value of standing timber as of March 1, 1913; corporations must set up on their books as of March 1, 1913, the fair market price en bloc, of all timber then owned by them, and then, by dividing such value by estimated number of feet in entire holdings, per unit value or price will be ascertained, which per unit price or value will be basis for measuring amount to be added to cost of manufacture; or deducted from gross income, until en bloc value of entire holdings shall have been extinguished; same rule applies to timber or timber lands purchased subsequent to March 1, 1913, only difference being that actual cost shall be substituted for en bloc price or value. (T. D. 2690; art. 173.)

There is no substantial distinction as applied to a mine between depreciation which was sought by mine owners under the acts of August 5, 1909, and October 3, 1913, and the depletion which was allowed by the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The lessee of a mine is not entitled to a deduction for depletion under the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The allowance for depletion in the case of mines pertains to a consumption of capital assets rather than to a business loss. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The fact that the lessee of a mine is under an affirmative obligation to remove or at least to pay for a fixed amount of ore does not change the general rule as to depletion in the case of lessees. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

Fair market price or value of timberlands as of March 1, 1913, is price at which property in its then condition, and with circumstances then surrounding it, could have been sold for cash or its equivalent; such value must not be speculative, but must be determined without taking into account any prospective profits that may result by manufacturing the timber into lumber; value, once determined, must be set up on books, and, as measure of stumpage deduction, must remain constant and can not be increased except as new purchases are made at higher average cost; value so set up will be subject to approval of Commissioner. (T. D. 2690; art. 173.)

Where entire market price or value for both timber and lands as of March 1, 1913, or entire cost, if acquired subsequent to that date, is extinguished through deduction from gross income for timber used, or through per unit charge to cost of manufacturing lumber, entire amount realized from logged-off lands or other salvage will be returned as income of year in which such lands are sold or disposed of; if timber or timber lands are sold en bloc, gain or loss will be ascertained on basis of difference between fair market price, or cost, and selling price, accordingly as property was acquired prior or subsequent to March 1, 1913. (T. D. 2690; art. 173.)

—— Reserve of corporation.

Dividend paid from depletion reserve considered a liquidating dividend and does not constitute taxable income, except to extent that amount so received is in excess of capital actually invested by stockholder in shares of stock and with respect to which distribution was made; no dividend will be deemed to have been paid from such reserve except to extent that dividend exceeds surplus and undivided profits of corporation at time of payment, and unless books, etc., of corporation clearly indicate corresponding reduction of capital assets resulting from payment. (T. D. 2690; art. 4.)

DEPRECIATION.

Corporation excise tax.

Insurance companies owning securities taken at market value may not, under section 38 of the act of August 5, 1909, deduct from gross income as depreciation the net decrease in market value of such securities; sums due the United States are a valid offset as against amount found due taxpayer in suit against collector, though included therein are items which Commissioner did not claim to be due the United States when considering the return for assessment purposes. (T. D. 2882; July 3, 1919.)

A steamship company is entitled to deduct from gross income in annual tax returns required by section 38 of the act of August 5, 1909, amounts paid out for ordi-

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Corporation excise tax—Continued.

nary and necessary repairs in the maintenance and operation of its business and property, and in addition a reasonable allowance for depreciation of property, if any, (T. D. 2773; Nov. 8, 1918. Ct. Dec.)

Decrease in the value of assets of an insurance company through amortization of premiums on bonds are mere book adjustments and are not deductible as an item of depreciation. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Definition.

The expression "depreciation of property," as used in corporation-tax act of August 5, 1909, is used in its ordinary and usual sense, as understood by business men. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

"Depreciation" as used in sections 5 (a) and 12 (a) of act of September 8, 1916, comprehends loss due to exhaustion, wear and tear of physical property other than natural deposits. (T. D. 2446; Feb. 7, 1917.)

Excess profits tax—Invested capital.

Rules for valuation of tangible property, subject to requirements of article 42 of Regulations No. 41 as to allowance for depletion, depreciation, and obsolescence, stated; presumed that tangible assets were acquired with cash either paid in directly or derived from trade or business, but taxpayer entitled to show that such assets were paid in as tangible property. (T. D. 2694; art. 67.)

Where through failure to provide for depletion, depreciation, obsolescence, or other expenses or losses, or where for any cause books of account of taxpayer do not show true paid-in or earned surplus and undivided profits, in computation of invested capital such adjustments shall be made as are necessary to arrive at correct amount; where taxpayer claims additions to capital account, books of account will be presumed to show true facts, and burden of proof will rest upon taxpayer, and such additions will be accepted only to extent and under certain specifically stated conditions. (T. D. 2694; art. 64.)

Basis of computation of invested capital is found in amount of cash and other property paid in, which computation must take properly into account surplus and undivided profits; in computation of such surplus and undivided profits recognition must first be given expenses incurred and losses sustained from original organization of business concern down to taxable year, including reasonable allowance for depletion, depreciation, or obsolescence of property originally acquired; if value appreciation of kind not subject to income tax (other than that allowed under article 55 of Regulations No. 41) has been taken up in accounts, deduction must be made in respect of such appreciation; in computation of invested capital for any year full effect must be given to any liquidation of original capital. (T. D. 2694; art. 42.)

Income taxes—Net income.

Under paragraph 7 of section 5 (a) of the act of 1916 there may be claimed a reasonable allowance for depreciation on farm buildings (other than dwellings occupied by owner), farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; arts. 4, 123.)

For purpose of income tax good will is capable of neither appreciation nor depreciation and an amount claimed to represent its decline in value is not an allowable deduction from gross income. (T. D. 2690; art. 8.)

Costumes purchased and used exclusively in production of a play and which are not adapted for occasional personal use and are not so used, are part of the equipment of a business, and, as such, subject to depreciation in value on account of wear and tear arising from their use in the business; reasonable allowance for such depreciation may be claimed. (T. D. 2690; art. 8.)

Where terms of will or trust or decree of court provide for keeping corpus of trust estate intact and where physical property has suffered depreciation through its employment in business, deduction from gross income to care for this depreciation, where deduction is applied or held by fiduciary for making good such depreciation, may be claimed by fiduciary in his return; contents of return; beneficiary required in case of trust estate to account for actual amounts distributed or credited to him. (T. D. 2690; art. 29.)

Lessee corporation may not deduct any depreciation with respect to buildings erected by it on leased ground, but cost of incidental repairs necessary to keep buildings in efficient condition for purpose of their use may be deducted as expense of operation and maintenance; if life of improvement is less than life of lease, depre-

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Income taxes—Net income—Continued.

ciation may be taken by lessee, based upon cost and life of improvement. (T. D. 2690; art. 140.)

Where stock has been purchased for any purpose and afterwards dies from disease or injury or is killed by order of authorities of State or United States, and cost thereof has not been claimed as an item of expense, actual purchase price of such stock, less any depreciation which may have been previously claimed, may be deducted as a loss. (T. D. 2690; art. 4.)

When improvements under lease or rental contract become part of real estate, difference between cost thereof and allowable depreciation during lease term is gain or profit to lessor at end of lease term, and must be accounted for as income at that time. (T. D. 2690; art. 4.)

When loss is claimed through destruction of property by fire, flood, or other casualty, amount deductible will be difference between value as of March 1, 1913, or cost of property and salvage value thereof, including in the latter value the amount, if any, that has been or should have been set aside and deducted in current or previous years from gross income on account of depreciation and which has not been paid out in making good the depreciation sustained. (T. D. 2690; art. 147.)

Loss due to voluntary removal or demolition of old buildings, scrapping of machinery, equipment, etc., incident to renewals and replacements will be deductible in amount representing difference between cost of such property and amount measuring reasonable allowance for depreciation which property had undergone prior to its demolition or scrapping. (T. D. 2690; art. 155.)

Corporations disposing of patents by sale should determine profit or loss by computing difference between selling price and value as of March 1, 1913, if acquired prior to that date, or between selling price and cost, if acquired subsequent to such date; profit or loss thus ascertained should be increased or decreased, as case may be, by amount deducted on account of depreciation of such patents since March 1, 1913, or since date of purchase if acquired after that date. (T. D. 2690; art. 157.)

Deduction for depreciation authorized by item second of section 12 should be amount of loss occurring during year to which return relates, estimated on cost of physical property with respect to which such deduction is claimed, which loss results from wear and tear due to use to which property is put and which loss has not been made good through expenditures for renewals, replacements, and repairs deducted under heading of expense for maintenance and operation; within purview of this item depreciation, to amount measuring decline in value due to exhaustion, wear and tear of property arising out of its use, is a loss, which loss, in order to constitute allowable deduction, must be charged off; manner of charging off loss is not material, except that the amount must be either deducted directly from book value of assets or credited to a depreciation reserve account and as such shall be reflected in annual balance sheet. (T. D. 2690; art. 159.)

Where corporation at end of year distributes net income as dividends, without providing for depreciation, it will be estopped from claiming in its returns for such year any deduction on account of depreciation unless it is shown conclusively that property account has been reduced by amount of depreciation claimed or unless such amount has been credited to a depreciation reserve account and such amount was in fact a reasonable allowance; a depreciation reserve account authorized by section 12 can not be diverted to payment of dividends; fact that no reserve was made for depreciation indicates that there was no loss on this account to be provided for. (T. D. 2690; art. 161.)

Though no definite rate has been fixed by which deduction on account of depreciation in value of property subject to wear and tear is to be computed, it is contemplated that such allowance shall be computed upon basis of cost of property and probable number of years constituting its life; deduction relates solely to loss due to use, wear, and tear, and matter of obsolescence is not relevant. (T. D. 2690; art. 162.)

There is no substantial distinction as applied to a mine between depreciation which was sought by mine owners under the acts of August 5, 1909, and October 3, 1913, and the depletion which was allowed by the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

Deduction on account of depreciation in case of buildings shall not include any allowance for estimated loss due to lessening of rental value, nor shall computation of deduction be influenced by changed environment after period of years nor by its lack of adaptability to use originally intended nor to any other outside influence affecting its value, but an allowable depreciation shall be determined solely upon

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Income taxes—Net income—Continued.

estimated life of such buildings after making due allowance for ordinary repairs, cost of which may be deducted as expenses for maintenance and operation. (T. D. 2690; art. 162.)

Assets of any character whatever which are not affected by use, wear, and tear (except patents, copyrights, etc.) are not subject to depreciation allowance; real estate as such, and as distinct from improvements thereon, is not reduced in value by reason of wear and tear, and therefore allowance contemplated as offset to depreciation in case of real estate corporations does not apply to the ground, but is intended to measure the decline, by reason of wear and tear, in value of improvements. (T. D. 2690; art. 162.)

Where actual cost of buildings or improvements at time they were taken over by corporation can not be definitely determined, it will be sufficient for purpose of determining rate of depreciation to be used in computing amount taxable to estimate actual value at time acquired of buildings or improvement if acquired after March 1, 1913, or fair market price or value as of that date if property was acquired prior thereto, value in either case to be reduced by amount of depreciation previously sustained. (T. D. 2690; art. 163.)

Depreciation set up on books and deducted can not be used for any purpose other than in making good loss sustained by reason of wear and tear of property with respect to which it is claimed; if, however, investment is made in extensions, additions, or betterments of company's own property, representing part or whole of credit balance of depreciation reserve account, such investment will not be considered a misuse or diversion of the depreciation deduction otherwise allowable. (T. D. 2690; art. 164.)

Where, by reason of underestimating life of property or overestimating rate of deterioration, an amount in excess of yearly depreciation has been taken, rate applicable to future years should at once be reduced and balance of cost of property not provided for through a depreciation resever should be spread over estimated remaining life of property. (T. D. 2690; art. 165.)

Good will represents value attached to business over and above value of physical property and is such an intangible asset that it is not subject to wear and tear and no claim for depreciation on account of it can be allowed; any loss resulting from or on account of investment in good will can be determined only when property or business to which good will attaches is sold or disposed of, in which case profit or loss will be determined upon basis of value of assets, including good will if acquired prior to March 1, 1913, or their cost if acquired subsequent to that date. (T. D. 2690; art. 167.)

No deduction will be allowed for depreciation of trade-marks and trade brands; if such assets shall have been purchased at a determined price and shall be later sold at a price less than cost or less than their determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such assets were sold. (T. D. 2690; art. 168.)

Depreciation computed on total invoice cost of merchandise in stock is not an allowable deduction, except that if portion of such merchandise is unsalable by reason of obsolescence or damage, depreciation deduction not in excess of decline in value during taxable year will be allowed. (T. D. 2690; art. 169.)

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

Ownership of mine content at time for which computation is made is an essential prerequisite to an allowable deduction for depletion under section 5 (a) and section 12 (a) of Title I of the act of September 8, 1916, as amended; deduction in case of lessee limited to amount equal to capital actually invested in lease without regard to value as of March 1, 1913, or any other date; the seventh and eighth paragraphs of section 5 (a) and the second paragraph of section 12 (a) authorize in case of mine owners two classes of deductions to take care of wastings of assets, namely, depreciation and depletion. (T. D. 2690; art. 171.)

Where designs, drawings, patterns, or models, for which corporation has made expenditures, result in production of goods which prove to be salable for certain

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Income taxes—Net income—Continued.

length of time and then become obsolete and can not be sold, amount expended for such designs, etc., less any amounts claimed as depreciation or as return of capital may be charged off, be included in and deducted as loss incident to business, provided full and complete information is reported to satisfaction of Commissioner of Internal Revenue. (T. D. 2690; art. 177.)

Where no depreciation has been charged off and deducted from gross income of prior years, amount allowable as deduction for year in which property becomes obsolete shall be ascertained by deducting from property its residual value plus amount equal to depreciation actually sustained during the prior period and which might have been deducted when computed ar rate applicable to same or similar property; amount of such depreciation as applicable to former years may be made basis of amended returns and claim for refund of taxes overpaid by reason of fact that no depreciation deduction was claimed in those years. (T. D. 2690; art. 179.)

Insurance companies, other than mutuals, but including mutual life and mutual marine, may add to expenses in lieu of depreciation of furniture and fixtures, actual cost of repairs, replacements, and renewals of such furniture as is reported to State insurance department, provided that in case of an original investment cost thereof shall be charged to capital account. (T. D. 2690; art. 240.)

Expenditures for incidental repairs which do not add to value nor appreciably prolong life of property are deductible as expenses by insurance companies other than mutuals, but including mutual life and mutual marine, but expenditures for new buildings, permanent improvements, or betterments, which increase value of property, or for restoring or replacing property, are not deductible; such expenditures are properly chargeable to capital account, to be extinguished through annual depreciation allowance. (T. D. 2690; art. 240.)

Reasonable allowance for wear and tear of property arising out of its use or employment in business or trade is to be based upon cost of such property or on its fair market price or value as of March 1, 1913, if acquired prior thereto; in absence of proof to contrary it will be assumed that such value as of March 1, 1913, is cost of property, less depreciation up to that date. (T. D. 2754; Aug. 23, 1918.)

Munition manufacturers' tax.

Depreciation deduction authorized by the act of September 8, 1916, relates to loss due to use, wear, and tear of physical property owned and used by the manufacturer but which is not specifically designed or installed for purpose of manufacturing munitions or parts thereof, and which, without material alteration and change, may be used in any other business in which person may be engaged; annual deduction on this account will be reasonable allowance determined upon basis of cost and the probable number of years constituting life of property; if same building and equipment are used coincidently for purposes other than manufacture of munitions or parts thereof, amount deductible will be apportioned in accordance with rule for apportioning running expenses. (T. D. 2384; art. 20.)

Neither depreciation nor amortization deduction allowable will relate to property used in connection with any other business carried on by the manufacturer; amortization applies only and particularly to those special plants and equipment whose life and value, except salvage, will terminate with the end of the business for which they were erected and equipped, and it is to be differentiated from depreciation in that the latter relates to property whose life and value is not dependent upon or materially affected by its use in manufacture of munitions or parts thereof. (T. D. 2384; art. 21.)

DESCENT AND DISTRIBUTION.

See "Estates"; "Estate Taxes"; "Inheritance Taxes."

DESTRUCTION OF PROPERTY.

Compensation—Excess profits tax.

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on Mar. 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation

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Compensation—Excess profits tax—Continued.

shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

—— **Income taxes.**

Property destroyed by order of authorities of State or of United States may be claimed as a loss; if reimbursement is made, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

Actual cost of property destroyed by order of authorities of a State or of the United States may be claimed as a loss; but if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

When loss is claimed through destruction of property by fire, flood, or other casualty, amount deductible will be difference between value as of March 1, 1913, or cost of property and salvage value thereof, including in the latter value the amount, if any, that has been or should have been set aside and deducted in current or previous years from gross income on account of depreciation and which has not been paid out in making good the depreciation sustained. (T. D. 2690; art. 147.)

Loss due to voluntary removal or demolition of old buildings, scrapping of machinery, equipment, etc., incident to renewals and replacements will be deductible, in amount representing difference between cost of such property and amount measuring reasonable allowance for depreciation which property had undergone prior to its demolition or scrapping. (T. D. 2690; art. 155.)

When corporation buys real estate upon which is located building or buildings, which it proceeds to raze, with view to erecting thereon other building or buildings, it will be held that corporation has sustained no deductible loss by reason of demolition of old building or buildings; in such case it will be considered that value of real estate, exclusive of old improvements, is equal to purchase price of land and buildings. (T. D. 2690; art. 156.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to income and war income taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property

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Compensation—Continued.

—— **Income taxes**—Continued.

shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

DISCLOSURE.

Income tax returns.

See "Inspection."

Copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear impress of the seal. (T. D. 2690; art. 226.)

Disclosure by collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person not legally authorized to receive same of any information whatever contained in or set forth by any return of annual net income made pursuant to the law, is, by the act, made a misdemeanor, and is punishable by fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, in discretion of the court, and if offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government. (T. D. 2690; art. 229.)

DISCOUNTS.

Estate tax.

Discounts allowed on original payment of tax not allowed on payment of additional assessment. (T. D. 2570; Nov. 6, 1917.)

Excise taxes.

A discount for cash or other discount made subsequently to sale can not be deducted in computing price for purpose of tax imposed by section 600 of the act of October 3, 1917. (T. D. 2719; Art. III.)

Income taxes—Net income.

Where shares of capital stock are sold at a discount, amount of discount is not a loss deductible from operating income. (T. D. 2690; art. 97.)

Where banks or other corporations loan money by discounting bills or notes, one of two methods shall be used in determining amount of discount to be reported as income, namely, (1) if bank or corporation makes practice of crediting discount directly to "discount account" or to profit and loss, total amount thus credited during year shall be considered income, regardless of fact that portion may represent discount paid in advance; (2) if bank or corporation follows practice of crediting discount to "unearned discount account," and later, as discount becomes earned, debits unearned account and credits "earned discount account" with amount so earned, total amount credited to "earned discount account" during year shall be considered income. (T. D. 2690; art. 114.)

Discount on bonds issued and sold prior to 1909, if such discount was then charged against surplus or against income of year in which bonds were sold, not deductible from income of subsequent years, for reason that charging off prior to January 1, 1909, of entire amount of discount constitutes closed transaction. (T. D. 2690; art. 149.)

Where corporation having sold its bonds at discount, discount having been deducted from gross income, later repurchases or redeems the bonds at a price less than par, difference between price at which they are redeemed and their par value will be returned as income; if bonds are sold at premium, premium must be returned as income. (T. D. 2690; art. 150.)

Where corporation sells its bonds at discount plus commission for selling, amount of such discount and commission, together with other expenses incidental to issuing bonds, constitute a loss, aggregate amount of which will, for purpose of income-tax return, be prorated over life of bonds sold, and amount thus apportioned to each year will be deductible from gross income of each year until bonds shall have been redeemed. (T. D. 2690; art. 150.)

Where bonds were sold subsequent to January 1, 1909, at a discount, and amount of discount was charged off on books, either against earnings or surplus, but not deducted in corporation's return of net income, such discount as was not then deducted may be spread over life of the bonds and an aliquot part of the discount may be deducted from gross income of each year until bonds mature or are redeemed. (T. D. 2690; art. 150.)

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DISMISSAL OF ACTIONS.

Income taxes—Claims.

Where suit for taxes not abated as uncollectible is dismissed upon technical defect in proceedings, or when adverse verdict is rendered on some technical ground not reaching merits of case, and right to new trial or to appeal has elapsed and tax can not be collected by distraint or by suit in equity to subject real estate to sale, claim for abatement should be made on Form 53. (T. D. 2690; art. 254.)

DISSOLVED CORPORATIONS.

Income taxes.

Corporation which was dissolved in 1917, prior to passage of act of October 3, 1917, is subject to tax under act of September 8, 1916, as amended, and also to war income tax and war excess profits tax imposed by act of October 3, 1917. (T. D. 2690; art. 61.)

—— Returns.

Corporation which was dissolved in 1917, prior to passage of the act of October 3, 1917, will make return on Form 1031, revised, covering period in 1917 during which it was in business prior to its dissolution; if it shall have previously made return covering this period and shall have paid any excess-profits tax under act of March 3, 1917, it shall be entitled to credit for amount of tax so paid against any excess profits tax assessed against it under Title II of the act of October 3, 1917. (T. D. 2690; art. 61.)

All corporations having existence as such during all or any portion of year, unless specifically exempt, are required to make returns; corporations dissolved during year and whose fiscal year coincides with calendar year will make returns covering period from January 1 to date of dissolution, and such corporations having fiscal year other than calendar year will make returns covering period from beginning of fiscal year to date of dissolution, and new corporations will make returns for period from date of organization to December 31, unless fiscal year is designated in proper manner, in which case returns for period from date or organization to close of fiscal year so established, in no case to exceed 12 months, will be filed. (T. D. 2690; art. 203.)

Corporation going into liquidation during any tax period may at time of such liquidation prepare final return covering income received or accrued to it during fractional part of year during which it was engaged in business and immediately file same with collector of district in which corporation has principal place of business; before distributing assets dissolving corporation should reserve funds sufficient to pay any income tax assessable against it; otherwise tax may be collected by suit against stockholders. (T. D. 2690; art. 205.)

DISTILLED SPIRITS.

See "Rectified Spirits."

Act published.

Extract from act of September 8, 1916, relating to tax on distilled spirits, published for information of internal-revenue officers and others concerned. (T. D. 2365; Sept. 11, 1916.)

Alaska.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Beverages—Bonds.

Persons, firms, or corporations (except distillers and proprietors of bonded warehouses, making deliveries in original tax-paid packages, who are already required to give bonds) desiring to use or sell or to use and sell distilled spirits for other than beverage purposes, must apply for permit and file bond with corporate surety or with two personal sureties who qualified on Form 33, to be approved by collector; bond with personal sureties, without justification by the sureties on Form 33, may be accepted on certain conditions; single bond authorized where same person or corporation is operating number of drug stores in same city. (T. D. 2559; Oct. 26, 1917. T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

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Beverages—Bonds—Continued.

Holders of permits for use of nonbeverage distilled spirits and wines issued prior to November 1, 1919, required to give new bond not later than December 31, 1919; however, no new bond need be filed where satisfactory bond was filed prior to November 1, 1919, on latest revised Form 738 published in T. D. 2788 or T. D. 2840, in sufficient penal sum to meet requirements of T. D. 2940, and in no case less than $1,000; existing permits expire on December 31, 1919, unless new bond is furnished as required. (T. D. 2946; Nov. 13, 1919.)

Applicant for permit to use nonbeverage distilled spirits or wines must furnish bond, in duplicate, conditioned that he shall comply with laws and regulations restricting sale or use of distilled spirits or wines for other than beverage purposes; bond must have corporate surety or two personal sureties and must be approved by prohibition enforcement officer of the State; personal bond may be accepted also if Government bonds in amount equal to penal sum of bond offered shall be duly assigned to Commissioner of Internal Revenue and deposited with prohibition enforcement officer as collateral security; contents of bond; signatures; alterations and erasures; forms; cancellation. (T. D. 2940; Oct. 29, 1919.)

Basis of penal sum of bond covering use or sale of nonbeverage spirits is $4.20 per proof gallon on quantity of spirits which will be received during any quarterly period of calendar year, plus amount of nonbeverage spirits on hand at end of preceding quarter; penal sum of bond covering wines will be computed at rate $100 for each 200 gallons, or any fractional part thereof; penal sum of bond covering both nonbeverage spirits and wines shall be aggregate sum of amounts required for each; provided, however, that penal sum of any bond shall be not less than $1,000, nor more than $100,000. (T. D. 2946; Nov. 13, 1919.)

—— **Books and transcripts.**

Distillers and storekeepers required to make certain entries on their records when packages of distilled spirits are sent out from distillery; rectifiers required to make certain entry in record when spirits are received for rectification; wholesale liquor dealers required to make entry on book 52 and on monthly transcripts. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Brandy.**

Distillers of brandy made from grape cheese, sweetened as provided in the act of September 8, 1916, are exempt from same provisions of law from which distillers of brandy from other fruits, wine, and fruit pomice residuum have been exempted, as set forth in Regulations No. 7, revised July 10, 1914; seven pounds of unsweetened grape cheese deemed a gallon; records; use of brandy in fortification of sweet wine; notice on Form 27½ and new bond on Form 30½; survey; records and returns; samples of sugar solution and of mash. (T. D. 2373; Sept. 28, 1916.)

There is no provision in the act of September 8, 1916, for refund of tax on brandy used in fortifying wines or redistillation of such wines; since act of September 8, 1916, is amendatory of the act of October 22, 1914, refunding provision of latter act is not applicable. (T. D. 2387; Oct. 30, 1916.)

Installation of metal or wooden seal locked tanks for reception of brandy or singlings required; construction of distillery and of brandy room or building; pipes; try-boxes; stills; worms; Vai spirit meters and inspection thereof; sample boxes. (T. D. 2491; May 21, 1917. T. D. 2514; July 24, 1917.)

Only brandy produced from grapes may be fermented and distilled for fortifying sweet wines after September 8, 1917. (T. D. 2520; Aug. 30, 1917.)

Fermenting and distilling of any materials for production of beverage brandy after September 8, 1917, is prohibited; brandy produced from grapes may be distilled for fortifying sweet wines under act of September 8, 1916, and act of August 10, 1917; brandy may be produced from materials fermented after September 8, 1917, for nonbeverage purposes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Compromise of violation of law.**

Any violation of law or regulations which is violation of act of August 10, 1917, only, can not be made subject of compromise by Commissioner of Internal Revenue, under section 3229, Revised Statutes, which section is applicable to offenses arising under internal-revenue laws only. (T. D. 2559; Oct. 26, 1917.)

Any violation of the law or regulations which is a violation of the act of August 10, 1917, or the act of November 21, 1918, can not be made the subject of compromise by the Commissioner of Internal Revenue under section 3229, Revised Statutes, which section is applicable to offenses arising under the internal-revenue laws only. (T. D. 2788; Feb. 6, 1919.)

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Beverages—Continued.

—— **Flavoring extracts.**

Nonbeverage distilled spirits taxable at rate of $2.20 per proof gallon may be used by manufacturers of flavoring extracts where such **extracts are unfit for use as a beverage, and such extracts** may in turn be used in **manufacturing** beverages. (T. D. 2566; Oct. 27, 1917.)

Distilled spirits used in manufacture of ordinary flavoring extracts are subject only to additional tax of $1.10 per proof gallon imposed by section 303 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

—— **Labels.**

Distilled spirits manufactured for other than beverage purposes **from foods,** fruits, etc., fermented after September 8, 1917, when entered into warehouse must bear printed label, to be provided by distiller bearing stated legend; manner of affixing label and form thereof stated; pasting on metal packages; signatures; advertising matter; changing spirits from one container to another; effacement and obliteration. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

—— **Materials used in production.**

Foods, fruits, food materials, or feeds prohibited for use in producing beverage spirits, include all cereals, tubers, fruits, molasses, grape cheese, apple cheese, fruit parings, cannery refuse, beet-sugar molasses, sour wine, and all other foods, feed, fruits, food materials, and the by-products thereof. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2788; Feb. 6, 1919.)

Section 15 of the act of August 10, 1917, contemplates that where foods, fruits, food materials or feeds are used in manufacture of distilled spirits for beverage purposes all fermentation must be finished not later than 11 o'clock p. m. of September 8, 1917. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917.)

Dilute saccharine liquid derived from sawdust, woodwaste, pulp, and like bases is material from which the production of distilled spirits for beverage purposes is prohibited by section 15 of the food-control act of August 10, 1917. (T. D. 2526; Sept. 25, 1917.)

Manufacture of distilled spirits from foods, fruits, food materials, or feeds for beverage purposes prohibited after September 8, 1917; **use of distilled spirits manufactured** from such materials after September 8, 1917, in **manufacturing** or preparing beverages or sale of such spirits for beverage purposes forbidden; materials prohibited for use in producing beverage spirits held to include cereals, tubers, fruits, cannery refuse, sour wine, etc.; production of grape spirits solely for use in fortification of sweet wines under act of September 8, 1916, not within prohibition. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Internal-revenue storekeeper-gaugers and storekeeper-gaugers assigned as gaugers will be guided by act of August 10, 1917, and regulations and rulings thereunder and will not permit the use in the production of beverage spirits of any material held by T. D. 2559 to be foods, fruits, food material, or feed. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Under act August 10, 1917, no beverage distilled spirits may be manufactured from foods, fruits, food materials or feeds for export or domestic use. (T. D. 2788; Feb. 6, 1919.)

—— **Nonbeverage products and purposes.**

Spirits manufactured for other than beverage purposes from prohibited materials after September 8, 1917, required when entered into warehouse to bear printed label, to be provided by the distiller, bearing stated legend, such label to be pasted and tacked to the container, to be rectangular in form, and to be printed in letters easily legible. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Distilled spirits for other than beverage purposes may be used only in the arts, sciences, and trades, where circumstances are such that there can be no probability **that the spirits will be used or sold for beverage purposes** or in the manufacture or production of any article intended for use as a beverage; medicinal, culinary, and flavoring extracts; cosmetics and toilet preparations; proprietary medicines; potable proof spirits. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Distillers producing nonbeverage spirits under act of August 10, 1917, required to conserve animal feed, contained in residue or slop, after distillation of spirits from cereals. (T. D. 2582; Nov. 17, 1917.)

So-called nonbeverage alcohol taxable at rate $3.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of prescrip-

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Beverages—Continued.

—— **Nonbeverage products and purposes**—Continued.

tion compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Distillers producing alcohol exclusively for other than beverage purposes may operate on Sundays, and collectors may require storekeeper-gaugers and storekeeper-gaugers in capacity of gaugers to remain on duty; notation to be made on vouchers for monthly compensation to effect that distilleries were in operation under provisions of section 302 of act of October 3, 1917; distillers manufacturing ethyl alcohol for nonbeverage purposes exclusively may be granted permission to fill fermenting tubs in sweet-mash distillery not oftener than every 48 hours. (T. D. 2636; Jan. 24, 1918.)

Distilled spirits held by manufacturers and intended not for sale as spirits, but for manufacture into nonbeverage products, are not subject to taxation under section 303 of act of October 3, 1917. (T. D. 2613; Jan. 28, 1918.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Standards adopted by Bureau of Internal Revenue for alcoholic preparations in which nonbeverage alcohol may be used stated; these preparations include U. S. P. and N. F. preparations, medicinal preparations, tincture of Jamaica ginger, flavoring extracts; perfumes, toilet waters, etc. (T. D. 2940; Oct. 29, 1919.)

Dealer or user who has received permit and posted same may make application for withdrawal or to purchase from dealers duly qualified specific quantities of distilled spirits or wines for nonbeverage purposes; requisites of application, which must be made in triplicate, stated; approval of application; signatures; form of application. (T. D. 2940; Oct. 29, 1919.)

After December 1, 1919, vendor of nonbeverage distilled spirits or wines must, under no circumstances, deliver wines (except for sacramental purposes), or nonbeverage spirits, unless on receipt of application Form 739, duly certified by prohibition enforcement officer; until December 1, 1919, approval of prohibition enforcement officer on Form 739 will not be required prior to shipment of wines or spirits. (T. D. 2946; Nov. 13, 1919.)

—— **Penalties for violating law and regulations.**

Storekeeper-gaugers, storekeeper-gaugers assigned as gaugers, and deputy collectors required to report to immediate superiors and revenue agents and collectors required to report to commissioner violations of law and regulations of date of October 26, 1917; penalty for violation of regulations stated; violation of law or regulations which is violation of act of August 10, 1917, only, not subject of compromise by commissioner under section 3229, Revised Statutes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

When there is evidence that wine or liquor obtained actually or ostensibly for sacramental, medicinal, or nonbeverage purposes has been used for beverage purposes it shall be reported to the Commissioner for assertion of additional tax liability, and to the United States attorney for prosecution. (T. D. 2881; July 3, 1919.

Fact that occupation or the production or sale of a beverage is prohibited does not relieve those engaged in such occupation or producing or selling the beverage from tax liability; payment of tax in no way conveys any right to act contrary to or to be be exempt from liabilities imposed by the prohibition legislation; result of statutes imposing taxes and prohibiting traffic is that same person may incur liability to tax and at same time be liable to prosecution under the prohibition laws. (T. D. 2881; July 3, 1919.)

The Department of Justice has exclusive jurisdiction to enforce the prohibition provisions of the act of November 21, 1918, and inquiries as to such act should be addressed either to the Attorney General or local United States attorney; apparent violations of the act should be reported to the local officers of the Department of Justice. (T. D. 2881; July 3, 1919.)

—— **Permits.**

All persons, firms, or corporations desiring to use or sell, or to use and sell distilled spirits for nonbeverage purposes required to file application for permit; all persons forbidden to sell or deliver distilled spirits for use or sale or for use and sale for nonbeverage purposes, if produced subsequent to September 8, 1917, or tax paid at rate of $2.20 per proof gallon to any person, etc., not qualified, and then only upon delivery of application therefor in due form; contents of application; to whom permits will be issued; recall of permits. (T. D. 2559; Oct. 26, 1917. T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919. T. D. 2354; June 3, 1919.)

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Beverages—Continued.

—— **Permits**—Continued.

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Prohibition enforcement officers must not issue permit for use of nonbeverage distilled spirits or wines subsequent to November 1, 1919, without first receiving approval of Commissioner of Internal Revenue; new permits will be issued under provisions of T. D. 2788 until November 1, 1919; permits issued prior to November 1, 1919, must be renewed; if, before application for renewal, permit holder desires to have permit extended to cover preparation not heretofore approved, prohibition enforcement officer will forward copy of old permit, together with new application, for approval of the Commissioner. (T. D. 2940; Oct. 29, 1919.)

All persons, firms, or corporations (except distilleries and proprietors of bonded warehouses, bonded wineries, and bonded storerooms, making deliveries in original packages), desiring to use for manufacturing purposes or sell distilled spirits or wines for medicinal or nonbeverage purposes, required to qualify by filing application for permit and bond; duly licensed practitioners of medicine may secure permit without giving bond for purchase of not in excess of two quarts of alcohol or alcoholic preparations during period of one year by filing Form 737 and executing sworn statement that such alcohol or preparations are to be used in their practice; form of application and data to be included therein; serial number; approval of application; posting of permits by holders. (T. D. 2940; Oct. 29, 1919.)

Where manufacturing pharmacists or manufacturing chemists who have obtained permit subsequent to November 1, 1919, to use nonbeverage spirits or wines in manufacture of certain preparations, desire to use such spirits or wines in manufacturing other preparations according to private formulæ submitted to them by others, they must file supplemental application, if total quantity produced during ninety days exceeds five gallons, but if total quantity does not exceed five gallons, special permit will not be required, but manufacturer will be held responsible as to sufficiency of medication; additional application must be made where it is desired to use nonbeverage spirits or wines in manufacture of additional preparations not stated in original permit. (T. D. 2940; Oct. 29, 1919.)

Where manufacturer desires to discontinue manufacture of certain preparations without having his entire permit revoked, he should notify the prohibition enforcement officer, who in turn should notify the Commissioner; names of such preparations will then be stricken out on all copies of permit. (T. D. 2940; Oct. 29, 1919.)

The commercial labels that are placed on containers of all preparations other than U. S. P. or N. F. must be filed with application for permit for use of nonbeverage distilled spirits or wines, otherwise permit will not be granted. (T. D. 2940; Oct. 29, 1919.)

Full names of individuals must be signed to application for permit for use of nonbeverage distilled spirits or wines, written exactly as in heading thereof; in case of copartnership firm name must be signed preceding names of members, and any member authorized may sign the firm name; in case of corporation the corporate name must be written, followed by name and title of officer duly authorized to sign for the company, together with impression of corporate seal. (T. D. 2940; Oct. 29, 1919.)

—— **Residue from industrial distilleries.**

Residue from industrial distilleries containing less than one-half of 1 per cent of alcohol by volume, used in making nontaxable beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or on the brewery premises, or transferred from distillery premises to other premises for bottling by means of unstamped packages unlike those ordinarily used for containing fermented liquor, or, if like packages are used, both heads to be equipped with metal plate, securely attached, and painted in solid color with certain lettering. (T. D. 2564; Oct. 26, 1917.)

Bonds.

Execution of new bonds required wherever specific acts of Congress or rates of taxation necessitate such bonds. (T. D. 2525; Sept. 24, 1917.)

Instructions with reference to requiring new bonds in cases where old bonds are inadequate because of increased rates imposed by act of October 3, 1917, upon manufacture and sale of distilled spirits. (T. D. 2578; Oct. 31, 1917.)

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Bonds—Continued.

All bonds except Form 432 must be written in penal sum sufficient to cover tax on distilled spirits at rate of $3.20 per gallon where spirits were produced prior to September 9, 1917, and where produced subsequent to such date, penal sum to be based upon tax at rate of $2.20 per gallon; where spirits covered by bond (Form 432) were produced prior to September 9, 1917, penal sum must be in sufficient amount to cover twice the tax at rate of $3.20, and where spirits were produced subsequent to such date, penal sum must be sufficient to cover tax at twice the amount of $2.20 per gallon; in case of losses rate of tax will be $3.20 per gallon in all cases; recital or condition of bond must fix tax to be asserted according to "laws of the United States." (T. D. 2644; Jan. 28, 1918.)

Bonds covering tax on distilled spirits required to be written in penal sum sufficient to cover tax at rate of $6.40 per gallon on spirits produced prior to September 9, 1917; where spirits produced subsequent to such date, penal sum of bond will be based upon tax at rate of $2.20 per gallon; penal sum of bond Form 432 will be in amount equal to $4.40 per gallon on all alcohol charged under the bond. (T. D. 2821; Apr. 10, 1919.)

Special instructions regarding cancellation of bonds (Form 738) in cases where it is impossible to surrender the permit or to furnish satisfactory evidence of its destruction. (T. D. 2854; June 3, 1919.)

Bottling.

Under section 405 of the act of September 8, 1916, gin of not less than 80 per cent proof may be bottled in bond in bottling warehouse on distillery premises for export at any time within eight years after entry in bond in distillery warehouse; except as herein provided, Regulations No. 23, revised December 21, 1912, and Regulations No. 29, revised August 18, 1914, are made applicable to withdrawal and bottling in bond for export before expiration of four years after entry in bonded distillery warehouse; spirits withdrawn tax paid, and spirits withdrawn for export can not be permitted in bottling warehouse of distillery at same time. (T. D. 2371; Sept. 15, 1916.)

When whisky bottled in bond is found on the market the actual proof of which does not exceed 101°, Office of Commissioner of Internal Revenue will not regard such overproof as cause for detention of spirits; when proof of spirits bottled in bond is found on market to be over 100.3° facts should be reported to Office of Commissioner of Internal Revenue, in order that where deemed necessary an investigation may be made of bottling warehouse where spirits were bottled. (T. D. 2432; Jan. 6, 1917.)

Spirits removed to bottling houses must be immediately bottled, cased, and removed from the premises; one day considered sufficient time within which to bottle contents of each tank, unless distiller is filling bottles less than quart in capacity, in which case time may be extended, but in no case to exceed three consecutive days. (T. D. 2480; Apr. 5, 1917.)

Requirement of article 34, Regulations No. 23, requiring name of domestic port of clearance and port of foreign destination to be marked on cases of distilled spirits bottled in bond for export, waived; distillers, however, required to mark on "Government side" of the cases the words "For export from U. S. A." (T. D. 2486; Apr. 21, 1917.)

Practice of underfilling bottles or using undersized bottles will not be tolerated; where quarts do not vary in capacity more than one-half ounce from the standard of 32 ounces and other sizes in like proportion, same will not be noticed, but if bottles are found upon either the distillers' premises or the open market uniformly to contain 31½ ounces as to quarts and other sizes in like proportion, and bottles are found to contain less than 31½ ounces of spirits as to quarts and other sizes in like proportion, such spirits will be subject to seizure; allowance for variation of one-half ounce from standard of 32 ounces will not be made unless there shall be as many bottles running 32½ ounces as there are those that run 31½ ounces as to quarts and other sizes in like proportion. (T. D. 2488; May 9, 1917. T. D. 2498; June 6, 1917.)

Marks and brands imprinted or embossed on a loose sheet to be attached to "Government side" of case permitted, provided that suitable paste or glue is used which will protect the loose sheet after it has been attached to the case from the effects of moisture. (T. D. 2492; May 28, 1917.)

Claims for abatement or refund.

Provisions of T. D. 2688 do not govern in case of claims for refund or abatement of taxes on distilled spirits, fermented liquors, and wines. (T. D. 2926; Sept. 29, 1919.)

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Containers.

Metal packages for containing distilled spirits for export not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided the required marks are stenciled on the heads by use of permanent stenciling material. (T. D. 2822; April 19, 1919.)

Metal packages for containing nonbeverage distilled spirits for domestic use are not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided that marks are stenciled on heads by use of permanent stenciling material. (T. D. 2884; July 21, 1919.)

Cordials.

Cordials are taxable under the act of September 8, 1916, only when containing wine fortified under that act; mixing of wine not so fortified with distilled spirits in the manufacture of cordials is within prohibition of paragraph (f) of section 402 of such act. (T. D. 2387; Oct. 30, 1916. T. D. 2788; Feb. 6, 1919.)

Artificial or imitation wines can not be fortified under the provision of paragraph (c) of section 402 of the act of September 8, 1916, and if containing distilled spirits can not be used in the manufacture of cordials. (T. D. 2387; Oct. 30, 1916. But see T. D. 2403; Nov. 29, 1916.)

Any domestic wines may be used in manufacture of liqueurs, cordials, and similar compounds, provided no distilled spirits are added; prohibition against mixing of distilled spirits with wines does not apply to limited use of alcohol in making of fluid extracts from herbs which may be used in manufacture of cordials; quantity or percentage of alcohol permitted in preparation of such extracts for manufacture of cordials must in all cases conform to United States Pharmacopœia. (T. D. 2387; Oct. 30, 1916.)

So-called cordials, if in fact wine, or if sold as wine, although containing distilled spirits, are taxable as wine. (T. D. 2387; Oct. 30, 1916.)

Denatured alcohol.

See "Alcohol."

Exportation in tanks or tank cars.

Each tank or tank car will be regarded as an original package, and an export stamp, to be procured by the shipper, will be affixed to each such tank or tank car. (T. D. 2368; Sept. 11, 1916.)

When alcohol or other distilled spirits are to be withdrawn from distillery bonded warehouse free of tax for export in tanks or tank cars, metal storage tanks must be provided in such warehouse to be constructed and arranged with proper pipe connections and suitable weighing tanks, as prescribed in Regulations No. 30; when withdrawals are to be made direct from receiving cisterns into tanks or tank cars, storage tanks need not be provided in such warehouse, in which case the weighing tanks will be located in the distillery cistern room. (T. D. 2368; Sept. 11, 1916.)

Applications for withdrawal of alcohol or other distilled spirits for exportation in tanks or tank cars, and bonds covering tax on spirits to be withdrawn, will be same as for spirits contained in original packages, except that in distributing the spirits the serial number of the storage tank will be given, or if withdrawal is to be made direct from receiving cistern, application and bond will so state. (T. D. 2368; Sept. 11, 1916.)

Bonded carriers to which shipments of spirits in tanks or tank cars are delivered for transportation for export required to procure certain seals for securing cars for use until such time as Commissioner of Internal Revenue may adopt a suitable seal; ordering, numbering, and affixing of seals; duty of collector of customs where seals are found to be intact at frontier point; duties of customs inspector where seals are found to be broken or tampered with. (T. D. 2368; Sept. 11, 1916.)

Monthly report of spirits withdrawn from receiving cisterns required to be made on supplemental Form 94A; contents. (T. D. 2368; Sept. 11, 1916.)

Exportation of alcohol or other distilled spirits in tanks or tank cars restricted to shipments by railroad destined for points in contiguous foreign territory. (T. D. 2368; Sept. 11, 1916.)

Alcohol or other distilled spirits of not less than 180° proof may be drawn from receiving cisterns at any distillery or from storage tanks in distillery warehouse into tanks or tank cars for export from United States. (T. D. 2368; Sept. 11, 1916.)

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Fermentation time limit.

Manufacturers of alcoholic medicinal preparations listed in T. D. 2544 can not legally use in such manufacture distilled spirits produced from materials fermented after September 8, 1917, nor distilled spirits taxable at the rate of $2.20 per gallon. (T. D. 2544; Oct. 19, 1917.)

Floor tax.

All distilled spirits in possession of manufacturing chemists, pharmacists, or any other person held for sale, although not for sale as distilled spirits on October 4, 1917, are subject to additional floor tax at $1.10 or $2.10 per proof gallon as case may be; distilled spirits in possession of manufacturers on October 4, 1917, which, in legitimate processes of manufacture, had been rendered unfit for use as beverages, are not subject to additional floor tax. (T. D. 2566; Oct. 27, 1917. But see T. D. 2643; Jan. 28, 1918.)

All vermuths, cordials, and other compounds, in which distilled spirits exclusively have not been used, but which contain spirits produced by fermentation, and those produced by distillation, will be considered as having 15 per cent alcohol by volume produced by natural fermentation, and additional tax of $2.10 per proof gallon will be due only on alcoholic content in excess of 15 per cent. (T. D. 2579; Nov. 5, 1917.)

All vermuths, cordials, and other compounds made exclusively from distilled spirits are subject to so-called floor tax of $2.10 additional on each proof gallon or fraction of a gallon of full alcoholic content thereof; where, however, such compounds are manufactured with mixture of wine and spirits, additional tax of $2.10 per proof gallon will be due only on distilled spirits contained therein, and not on the spirits contained in the fermented wines used. (T. D. 2579; Nov. 5, 1917.)

Where satisfactory bonds have not been given for extension of time for making payment, notice and demand should be mailed as provided by section 3184, Revised Statutes, which notice and demand should be served on Form 1-17, and should be followed in order by Form 1-21 and Form 69 within intervals of 10 days of each other; notice where required bonds have been given; penalties; suits on bonds. (T. D. 2648; Jan. 28, 1918.)

All notices required to perfect lien against parties liable to tax should be issued promptly, including notice on Form 668, which should be filed in office of proper clerk of United States district court, or in office of proper registrar, or recorder of deeds, where State law authorizes such filing; notice should always be filed in doubtful cases where large sums are involved as soon as practicable, and collector is of opinion that such action is necessary to protect interests of Government. (T. D. 2648; Jan. 28, 1918.)

Where stock of goods upon which floor tax has not been paid is depleted by being sold or removed in such manner as will result in jeopardizing collection of taxes same should be seized under provisions of section 3453, Revised Statutes, without awaiting result of distraint proceedings. (T. D. 2648; Jan. 28, 1918.)

Under section 1003 of act October 8, 1917, tax on spirits in hands of bankruptcy court June 1, 1917, shall be collected from purchaser thereof by trustees in bankruptcy or their agent, and quantity sold and amount of tax collected during any calendar month shall be reported to collector of district in which sales are made not later than 10th day of month succeeding, which report shall be transmitted to Commissioner's office, whereupon assessment will be made and tax collected in ordinary course; person collecting tax, whether it is specifically charged as such to person to whom spirits are delivered or not, will be held liable for same. (T. D. 2749; July 29, 1918.)

Section 303, revenue act of 1917, imposing floor taxes on distilled spirits, applies to distilled spirits held on board American ships and intended for sale, whether the vessel on which they were held was at dock in this country, on the high seas, or in foreign waters. (T. D. 3098; Dec. 7, 1920.)

Gauging.

Instructions with reference to assignment to distilleries of storekeeper-gaugers in place of storekeepers and gaugers; bonds; hours of work; duties; compensation. (T. D. 2438; Jan. 29, 1917. T. D. 2456; Mar. 16, 1917.)

General storekeeper-gauger will be designated, assigned, and compensated, and will perform service as provided by Regulations 7 and 2, and T. D. 2408, with the reservation that in the discretion of the collector of internal revenue, or of the commissioner, any distillery, general, or special bonded warehouse may be placed in charge of an officer thus designated whenever withdrawal of spirits is inconsiderable

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Gauging—Continued.

or whenever the collector or the Commissioner deems such course to be for the best interest of the Government. (T. D. 2444; Feb. 9, 1917.)

Instructions with reference to assignment of gaugers to distilleries producing 100 gallons per day; storekeeper-gaugers assigned, when; recommendations for assignments on Form 241; compensation; hours of labor; duties as to records, reading meters, etc. (T. D. 2491; May 21, 1917. T. D. 2514; July 24, 1917.)

Form 108 abolished; Form 109 required to be filed with Form 150 in collectors' offices; verification of gallons reported on Form 150 required; revenue agents on accounts required to verify gallons gauged as shown by Form 160 with Form 59 and Form 109 and to report discrepancies. (T. D. 2464; Mar. 23, 1917.)

Maximum limit of wantage, after September 1, 1917, in all packages of distilled spirits of a proof of 150 and upward, when filled at distillery warehouses, at fruit distilleries whose daily producing capacity exceeds 100 proof gallons, and at rectifying houses, stated; schedule; regulations on pages 26–28 of the Gaugers' Manual (1913) and on pages 150, 151, of No. 7, revised July 10, 1914, modified. (T. D. 2515; Aug. 16, 1917.)

Instruction with reference to change in price of standard gauging rod or any part thereof, and as to making applications and sending remittances therefor. (T. D. 2617; Dec. 13, 1917.)

Rate of pay of officers assigned in dual capacity of storekeeper-gaugers to distillery warehouses at distilleries having registered capacity of more than 20 bushels and to special bonded and general bonded warehouses, fixed at $4 per day; this rate to be applicable in case of distillery warehouse whether distillery is being operated or is under suspension, and as to all warehouses irrespective of quantity of spirits stored therein; when, however, quantity of spirits in warehouse is 5,000 gallons, or less, rate of pay will be fixed at $4 per day for such days only as officer is required to visit warehouse for necessary purposes; this rate of pay to be effective on and after February 1, 1920. (T. D. 2980; Feb. 11, 1920.)

Ginger brandy.

Cauffman's ginger brandy is an alcoholic compound beverage, and no distilled spirits fermented after 11 o'clock p. m. of September 8, 1917, may be used in its manufacture; additional floor tax on product must be paid after inventory and return in same manner as floor taxes on distilled spirits. (T. D. 2536; Oct. 13, 1917.)

Inventories.

Where tax-paid whisky belonging to customers of distillers is held by the latter for shipping instructions, an inventory covering such spirits should be furnished by the owner thereof and not by the distiller, the distiller being required to furnish the collector with a statement showing the name and address of the owner, serial numbers of packages, and proof-gallon contents, time of shipment to owner, etc. (T. D. 2522; Sept. 10, 1917.)

Loss.

Claims for remission of tax on spirits lost in transit for export not required where spirits are shipped in sealed cars and the seals, on arrival of cars, are found intact, and where loss reported does not exceed 4 wine gallons as to any one package, provided average loss does not exceed 2 wine gallons per package as to all packages gauged; requisites of application for relief where loss reported exceeds amount stated; certificate setting forth whether spirits were insured in excess of market value thereof, exclusive of tax; regulations applicable to spirits lost when shipped in unsealed cars, except that loss in excess of 1 proof gallon per package will be regarded in such cases as excessive. (T. D. 2461; Mar. 16, 1917.)

Collectors directed to require immediate withdrawal of packages showing on regauge loss of 26 per cent or more over statutory allowance, where such excessive loss exceeds 2 proof gallons; packages showing excessive loss exceeding 25 per cent over maximum allowance, where such excessive loss does not exceed 2 proof gallons, and which have remained in warehouse less than four years, may remain in warehouse until spirits are eligible for bottling in bond; retention in warehouse not permitted where condition of warehouse or packages indicates want of proper care in preventing unnecessary losses or where loss is of such extent as will materially affect tax security afforded by lien under section 3251, Revised Statutes. (T. D. 2508; July 5, 1917.)

Where loss occurs or is discovered on or before October 3, 1917, tax due will be at rate of $1.10 per proof gallon; tax due on spirits lost by casualty, or when loss by

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Loss—Continued.

casualty is discovered on or after October 4, 1917, will be at rate of $3.20 per proof gallon. (T. D. 2539; Oct. 17, 1917.)

Rate of tax, in cases of loss in transit for export, will be determined by date on which spirits were inspected by customs gauger at port of export; rate on spirits inspected on or before October 3, 1917, will be $1.10 per proof gallon, but where loss is discovered on or after October 4, 1917, tax due on loss will be at rate of $3.20 per proof gallon. (T. D. 2539; Oct. 17, 1917.)

Where losses occur from spirits covered by bond, rate of tax to be asserted in connection with such losses will be $6.40 per gallon when bond is written in penal sum measured by that rate of tax; when penal sum of bond covers tax at rate of $2.20 a gallon, assessment on account of losses will be made at that rate, unless it shall appear that spirits or any part thereof were diverted to beverage purposes, or for use in manufacture or production of any article used or intended for use as a beverage, in which event tax will be assessed at rate of $6.40 a gallon. (T. D. 2821; Apr. 10, 1919.)

Marks and brands.

Article No. 34, Regulations No. 23, revised December 21, 1912, amended so as to to permit serial numbers of cases which are to contain spirits bottled in bond for domestic purposes, to be stenciled thereon in black letters instead of being burned, imprinted, or embossed. (T. D. 2419; Dec. 20, 1916.)

All products of rectification from molasses, spirits, or spirits other than grain at rectifying houses, must be marked and branded in the same manner as spirits derived from grain. (T. D. 2548, 2560; Oct. 4, 1917.)

Materials used in production.

On and after January 1, 1918, no grain other than corn of quality inferior to quality of Federal grade No. 6 corn shall be used in production of distilled spirits; provided, however, that malted barley or rye that is required for conversion of starch may be used; violation of regulation carries penalty of fine not exceeding $5,000 or imprisonment for not more than two years or both. (T. D. 2607; Dec. 17, 1917.)

Sound grain heretofore received on premises of distiller and entered upon records may be removed for commercial purposes, necessary credit being taken on such records, storekeeper-gauger forwarding certificate and noting removal on Form 88; regulations as to use of corn; requirement of new surveys of distilleries and reduction of required yield per bushel; use of corn in manufacture of yeast. (T. D. 2642; Jan. 28, 1918.)

Mixture with wines.

Under the act of September 8, 1916, it is illegal to mix distilled spirits and wines for any purpose except in the manufacture of liqueurs, cordials, and similar compounds taxable under that act, but this does not prohibit the manufacture of medicinal extracts with tax-paid nonbeverage spirits and the subsequent addition of such extracts to tax-paid wines in the manufacture of proprietary medicines or soft drinks which are otherwise manufactured in accordance with the law and regulations; this provision removes an apparent conflict pertaining to the mixture of distilled spirits and wines as contained in T. D. 2387 and T. D. 2403. (T. D. 2788; Feb. 6, 1919.)

Nonpayment of tax—Forfeiture.

Nonparticipation of owner of automobile in its use in transporting distilled spirits upon which the tax had not been paid is no bar to proceeding in rem for its forfeiture. (T. D. 2776; Dec. 11, 1918.)

Distilled spirits seized because of filing of incorrect return or failure to file return not willful may be released on payment of tax and compromise offer of 25 per cent; payment of tax and compromise offer of 100 per cent required in case of false return or willful failure to file return. Acceptance of such offers is in lieu of forfeiture only. (T. D. 2877; June 27, 1919.)

Under section 3450, Revised Statutes, automobiles used in transporting spirituous liquors on which tax has not been paid, borrowed from purchaser thereof, who had given his note secured by deed of trust thereon for unpaid purchase price, is subject to forfeiture as against seller, though under terms of deed and the State law the seller could require the trustee to seize such automobile and sell it in satisfaction of his deed, and though he had no knowledge of any intention to use such automobile for an illegal purpose. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

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Physicians' prescriptions—Pharmacists.

Pharmacists who hold permit and have given bond permitted to sell nonbeverage alcohol without physician's prescription to persons who do not hold permits and who have not given bonds, in quantities not exceeding 1 pint, but not in advance of orders, provided they first medicate same in accordance with any one of certain formulas; container of such alcohol to bear "Poison" label. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Apothecaries may carry distilled spirits and wines in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without payment of special tax. (T. D. 2760; Oct. 9, 1918.)

Physicians may prescribe liquors for internal or external uses, but in every such case each prescription shall be in duplicate, and both copies be signed in physician's handwriting; quantity prescribed for single patient at given time shall not exceed one quart, and in no case shall physician prescribe alcoholic liquors unless patient is under his constant personal supervision; all prescriptions shall indicate clearly name and address of patient, condition or illness for which prescribed, and name of pharmacist to whom prescription is to be presented for filling. (T. D. 2881; July 3, 1919.)

Nonbeverage distilled spirits or alcohol tax paid at rate of $2.20 per gallon may be used in filling physicians' prescriptions in accordance herewith whether spirits or alcohol is medicated or denatured so as to render it unfit for beverage use or whether it is not so medicated or denatured; regulations or instructions inconsistent herewith revoked. (T. D. 2934; Oct. 10, 1919.)

Where the same person, firm, or corporation is operating a number of drug stores in the same city, the withdrawal or purchase for sale or use of alcohol and wine for nonbeverage purposes at all of these stores may be covered by a single bond, permit, and serial number; the bond in such case must be in sufficient amount to cover the operations at all the different stores, and the name and location of each store where sales are to be made must be stated in the appropriate spaces in the bond; the original permit will be posted at the main store, and a copy of the same must be posted at each of the other stores, with a notation in the margin thereof setting forth the fact that the original is posted at the main store, giving the street address where the same is located; applications for withdrawal or purchase for use or sale for other than beverage purposes will be made by the person, firm, or corporation to whom the permit is issued, the entire quantity of spirits and wines involved being accounted for in the appropriate blank spaces, and so certified. (T. D. 2788; Feb. 6, 1919.)

Physician shall keep record in which separate page or pages shall be allotted each patient for whom alcoholic liquors are prescribed, and shall enter therein, under patient's name and address, date of each prescription, amount and kind of liquors dispensed by each prescription, and name of pharmacist filling same. (T. D. 2881; July 3, 1919.)

Pharmacists should refuse to fill prescriptions if they have reason to believe that physicians are dispensing for other than strictly legitimate medicinal uses to that patient is securing quantities in excess of amount required for legitimare uses. (T. D. 2881; July 3, 1919.)

Any licensed pharmacist or druggist may fill physicians' prescriptions (1) if his name appears on the prescription in the physician's handwriting, and (2) if he has made application and received permit, Form 737, in accordance with provisions of T. D. 2788, and (3) if he has qualified as retail liquor dealer by payment of special tax; no such prescription may be refilled. (T. D. 2881; July 3, 1919.)

Wholesale pharmacists may continue to qualify for sale of liquors or wines for nonbeverage purposes in conformity with T. D. 2788. (T. D. 2881; July 3, 1919.)

Druggist filling physicians' prescriptions shall preserve in separate, carefully guarded file one copy of every prescription filled and once a month shall transmit to collector a list showing names of physicians, names of patients, and total quantity dispensed to each patient during the month; whenever physician is prescribing more than normal quantities, or any patient is procuring more than normal quantity, collector shall report facts to Commissioner and the United States attorney. (T. D. 2881; July 3, 1919.)

Wholesale or retail liquor dealers having stocks of wines or liquors on hand may sell to pharmacists holding permit, upon receipt of order on Form 739 and in conformity with T. D. 2788, until supplies are exhausted; wholesale or retail dealers who are not licensed druggists or pharmacists will not be permitted to qualify, after their present stocks are exhausted, to deal in either beverage or nonbeverage spirits.

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Physicians' prescriptions—Pharmacists—Continued.

(T. D. 2881; July 3, 1919.) Revoked in so far as applicable to wholesale liquor dealers who are not licensed pharmacists or druggists. (T. D. 2959; Jan. 5, 1920.)

Recovery from empty spirit packages.

Distilled spirits may be extracted from empty spirit packages at central distilling and denaturing plants, established under act of October 3, 1913, and Regulations No. 30 and Supplement No. 2, made in pursuance thereof, by steaming, hot water, or other processes on such premises; spirits thus recovered to be used as distilling material; necessary capacity of distillery stated; nature of distilling apparatus required; storekeeper-gauger; use of special denaturants; bond required; installation of charge tanks and requisites thereof. (T. D. 2565; Oct. 27, 1917.)

Retail liquor dealers.

Retail liquor dealers may reduce in proof by addition of water to spirits drawn from distiller's original package or wholesale liquor dealer's package containing other than rectified spirits, tax paid at 15-cent rate by the rectifier, providing resulting quantity is less than 5 wine gallons. (T. D. 2566; Oct. 27, 1917.)

Provision of section 304 of the act of October 3, 1917, prohibiting reduction in proof or increase in volume in any quantity by addition of water or other substance, rectified spirits on which the 15-cent tax has been paid, does not apply to reduction of proof by retailers made at time of sale, but such reduction may not be made in quantity in advance of sale of drinks. (T. D. 2566; Oct. 27, 1917.)

Permits to use or to sell, or to use and sell, distilled spirits, will not be issued to retail liquor dealers, except pharmacists and such other retail dealers as do not sell beverage spirits. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Where wholesale liquor dealer desires to empty into bottles or other retail packages distilled spirits received by him, entry should be made in record 52B to effect that same were disposed of to himself for bottling; after spirits have been placed in metal containers further entry should be made in record 52A covering receipt thereof for bottling, and approved entries made in record 52B when final disposition is made; this does not affect privilege accorded wholesale liquor dealers, who are also retail liquor dealers, to charge off on record 52B as disposed of to their retail departments spirits intended to be sold in retail quantities as retail liquor dealers. (T. D. 2571; Oct. 27, 1917.)

Samples.

Practice of distillers who draw samples from packages of distilled spirits after the packages have been regauged and while lying on the gauging porch awaiting arrival of tax-paid stamps, is unauthorized. (T. D. 2397; Nov. 20, 1916.)

Stamps.

Revised Form 92 (application for wholesale liquor dealer's stamp) required to be used to exclusion of all former editions, both of Form 92 and Form 92½, on and after July 1, 1917; record of applications; requisition or competitive bids for equipment. (T. D. 2455; Mar. 14, 1917.)

Use of distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, and transfer brandy stamps discontinued; effective November 1, 1917. (T. D. 2548, 2560; Oct. 4, 1917.)

Stills.

Under section 3265, Revised Statutes, any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling shall, before removal from place of manufacture, notify in writing the collector of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and time when same is to be removed from the place of manufacture; no such still, boiler, or other vessel shall be set up without a permit in writing from the collector for that purpose. (T. D. 2993; Mar. 22, 1920.)

The provision in section 3265, Revised Statutes, punishing failure to give notice of intention to remove and obtain permit to set up a still in the sum of $500, and making apparatus forfeitable to the Government, applies to any and all stills of whatever size or capacity. (T. D. 2993; Mar. 22, 1920.)

Under section 3244, Revised Statutes, all stills which are manufactured can be removed only under permit from the collector, which permit must be in pursuance of the notice by the manufacturer and must be registered on Form 26 when set up. (T. D. 2993; Mar. 22, 1920.)

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Stills—Continued.

Registry of still or distilling apparatus set up, required by section 3258, Revised Statutes, must be made on permit No. 26, in triplicate, and delivered to collector, who will send one copy to the Federal director of prohibition for the State and one to the Commissioner of Internal Revenue; this registry must be made immediately after the still or distilling apparatus comes into possession, custody, or under control of such person, whether it be a new still or distilling apparatus, or whether one party succeeds another in the possession, custody, control, or use thereof. (T. D. 2993; Mar. 22, 1920.)

The requirement of law that all stills set up must be registered, whether intended for use or not, applies to all stills, of whatever size and for whatever purpose intended, whether for distillation of spirits or for pharmaceutical or other purposes; and any still or distilling apparatus not so registered is subject to forfeiture to the United States, together with all personal property in the possession or custody or under the control of the person having possession or control of such still or distilling apparatus and found in the building or in any yard or inclosure connected with the building in which same may be set up. (T. D. 2993; Mar. 22, 1920.)

It will be assumed that any still is intended for the production of distilled spirits, with exception of retorts for the production of wood alcohol, unless the manufacturer shall furnish to the collector of the district evidence under oath to show that the still is to be used for other purposes than distilling spirits, and this evidence must show affirmatively the exact purpose for which still is to be used and where it is to be set up and used; upon filing of evidence in question along with notice to collector of intention to remove the still from the place of manufacture, the still may be removed without payment of tax thereon and without permit called for in section 3265, Revised Statutes, but the same must be registered when set up; this ruling does not apply to glass laboratory stills of trifling capacity used only for chemical purposes. (T. D. 2993; Mar. 22, 1920.)

Storage.

Storage on bonded premises of distilled spirits on which tax has been paid is not permissible. (T. D. 2387; Oct. 30, 1916.)

Instructions with reference to construction of distillery warehouses; materials; foundations; doors and windows; contents of application for approval of warehouse. (T. D. 2431; Jan. 9, 1917.)

—— Warehouse receipts.

Persons selling warehouse receipts representing distilled spirits in storage are liable to special tax as they would be on account of the sale of the spirits themselves, but in view of section 3244, Revised Statutes, as amended, such liability will not attach to persons selling such certificates received as security for or in payment of a debt, provided such certificates or the spirits represented thereby are sold in one lot, or the spirits are sold at public auction in lots of not less than 20 gallons each; T. D. 1278 revoked. (T. D. 2784; Jan 23, 1919.)

Survey of distilleries.

Instructions relative to making surveys of distilleries using the filtration-aeration process and operating on the sweet-mash principle for the commercial manufacture of yeast only. (T. D. 2393; Oct. 7, 1916.)

Industrial distilleries and central distilling and denaturing plants are exempted from the provisions of section 3264, Revised Statutes, requiring that surveys of distilleries be made to determine true spirit-producing capacities thereof for a day of 24 hours. (T. D. 2728; June 8, 1918.)

Time taxes effective.

War revenue taxes on distilled spirits removed from place of production or storage in bond took effect on and after morning of October 4, 1917. (T. D. 2547; Oct. 22, 1917.)

Virgin Islands.

Distilled spirits produced in the Virgin Islands and held for sale in the United States on October 3, 1917, are subject to additional taxes imposed by act of October 3, 1917, as in case of domestic spirits. (T. D. 2570; Nov. 6, 1917.)

Wantage rod.

Notice of increase in price of Alexander's improved wantage rod and instruction as to method of procuring and using same. (T. D. 2640; Jan. 28, 1918.)

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Wholesale liquor dealers.

Wholesale liquor dealer may on making change of package of distiller's original package or any wholesale liquor dealer's package containing other than rectified spirits, tax paid by the rectifier, reduce the proof by addition of water, or making necessary changes in marks, brands, and stamps, pursuant to application on Form 92. (T. D. 2566; Oct. 27, 1917.)

Where wholesale liquor dealer received distilled spirits on his premises he should enter in record 52A information required by section 3318, Revised Statutes, and when spirits are disposed of by him, corresponding entry should be made in record 52B; instruction as to entries where dealer desires to empty spirits into bottles or other retail packages. (T. D. 2571; Oct. 27, 1917.)

Wholesale dealers authorized to provide themselves with supplementary Forms 52, as prescribed, in which to make necessary entries of receipt and disposition of retail packages; verified transcripts of supplemental records must be filed. (T. D. 2655; Feb. 11, 1918.)

Withdrawals.

Gaugers required, in making up Form 59, reporting spirits withdrawn from warehouse for export upon original gauge, to enter in proper columns complete data as to each package appearing in Form 59 reporting the entry gauge; when such spirits are shipped for export in cars sealed with "U. S. C. in bond" seals, gauger will prepare separate Form 59 for packages shipped in each car, and serial numbers of seals will also be stated in Form 206, together with serial numbers of packages; bills of lading for each car required to have seal numbers noted thereon. (T. D. 2473; Apr. 2, 1917.)

Distillers or owners of spirits permitted to execute continuing (blanket) bond, under which spirits may be withdrawn from time to time, in lieu of bond, Form 643, prescribed in Regulations No. 29, for each specified lot of distilled spirits, which bond will be executed in duplicate with satisfactory sureties and in penal sum sufficient to cover 125 per cent of estimated amount of tax which will at any one time constitute a charge against the bond and in no case less than $1,000; new or additional bond; credit in bonded spirits accounts. (T. D. 2495; June 8, 1917.)

Date of withdrawal controls and spirits not withdrawn prior to inception of act of October 3, 1917, can not lawfully be withdrawn until the full tax under such law is paid, though distilled spirits tax was paid on October 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Regulations relative to sale and use of distilled spirits for nonbeverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to alcohol withdrawn for denaturation, to alcohol withdrawn for scientific purposes, to distilled spirits withdrawn for use of United States free of tax under section 3464, Revised Statutes, or to spirits withdrawn for export. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Regulations directing that no regauge will be made upon withdrawal of packages of distilled spirits from warehouses when same have not been in warehouse more than 30 days; when gauging officer notes that package has been tampered with, or when he has reason to believe that package contains more spirits than is shown by original gauge, or materially less spirits, or distiller asks for regauge, regauge will be made before withdrawal; reason for regauge to be noted in Form 59 where regauge is made upon withdrawal of packages which have remained in warehouse not exceeding 30 days. (T. D. 2562; Oct. 22, 1917.)

Applicant for withdrawal or purchase of nonbeverage spirits will make out application in triplicate, filling in necessary data within his knowledge; instructions with relation to distribution of spirits; application to be delivered to vendor of spirits who will fill in necessary data; disposition of triplicates; approval of collector in advance of withdrawal or purchase not required; applicant must sign certificate in prepared spaces without making affidavit. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Instructions with reference to withdrawal of alcohol for use in central denaturing warehouses from different distilleries under one bond; requisites of bond; permit; application for regauge and withdrawal; order; storekeeper's duties; certificate of gauger. (T. D. 2630; Jan. 17, 1918.)

Application for withdrawal required to be made on Form 543, which must be signed by head of executive department or head of bureau not under control of any department, or by a Government officer or employee designated by written order, and must indicate bureau or division and department or independent bureau of United States for which spirits are to be withdrawn. (T. D. 2653; Feb. 16, 1918.)

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Withdrawals—Continued.

Burden is on plaintiff in suit at law to recover tax paid under protest, pursuant to assessment based on alleged transferring, in removing spirits from bond, of portion of contents of barrels containing, respectively, more than requirements of Carlisle allowance to barrels containing, respectively, less than the minimum contents required by Carlisle allowance, to show what part of assessment was wrongful; burden is not met by proof that payment was made in accordance with governmental regauge nor does added fact of long delay in making assessment overcome its prima facie evidentiary effect. (T. D. 2757; Sept. 5, 1918. Ct. Dec.)

Regulations concerning removal of tax-paid alcohol in tanks or tank cars from registered distilleries to premises of rectifiers of spirits; transfer to storage tanks; reports; labels; bonds. (T. D. 2790; Feb. 15, 1919.)

DISTILLED WATERS.

See "Waters."

DISTRAINT.

Floor taxes—Bonds.

Collectors should use vigilance in collection of taxes and issue distraint warrant wherever necessary; if taxes secured by filing of bond are not paid within time limit, collector should endeavor to collect by distraint. (T. D. 2574; Oct. 31, 1917.)

—— Seizure of goods.

Where stock of goods upon which floor tax has not been paid is depleted by being sold or removed in such manner as will result in jeopardizing collection of taxes, same should be seized under provisions of section 3453, Revised Statutes, without awaiting result of distraint proceedings. (T. D. 2648; Jan. 28, 1918.)

Income taxes—Collection.

All property in United States of nonresident alien is subject to distraint for collection of tax and penalty. (T. D. 2690; art. 13.)

Amounts collected by distraint or otherwise subsequent to institution of suit for collection by United States attorney should be at once reported to United States attorney for his guidance in his further prosecution of case in court. (T. D. 2690; art. 251.)

Credit given collector for taxes abated as uncollectible will not affect suit pending for their recovery, nor will it relieve collector from duty of distraining any property of taxpayer that may be found at any time before judgment. (T. D. 2690; art. 252.)

DISTRICT OF COLUMBIA.

Excise taxes.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its island or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Facilities furnished by carriers.

See "Transportation Tax."

Income taxes—Public utilities.

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

Stamp tax on time drafts.

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

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Telegraph, etc., messages—Official business.

All telegraph, telephone, or radio messages of officers and employees of the District of Columbia, on official business, are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telegraph, telephone, or radio company; officer or employee sending telegraph or radio message should certify thereon that it is on account of official business and not for private purposes; form of certificate indicated. (T. D. 2551; Oct. 22, 1917.)

Under section 502 of act of October 3, 1917, radio messages, telegraph messages, and telephone messages relating to Government business, which originate in United States, and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages may be claimed when amounts paid for such messages are finally to be paid by the Government under a cost-plus contract. This does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

DITCH COMPANIES.

Capital stock tax—Exemption.

Farmers' or other mutual ditch or irrigation company, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting its expenses, is exempt from tax imposed by section 11 of Title I of act September 8, 1916. (T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemption.

Mutual ditch or irrigation company is specifically exempt from income tax, provided that their entire income consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organization has income from any source other than assessments, dues, and fees, such income is taxable, and organizations receiving same will be required to make returns. (T. D. 2690; art. 69.)

DIVIDENDS.

See "Corporations."

Definition.

The term "dividend," within the income-tax law, means any distribution made or ordered to be made by a corporation, joint-stock company or association, or insurance company out of its earnings or profits accrued since March 1, 1913, and payable to its shareholders whether in cash or in stock of the corporation, joint-stock company or association, or insurance company. (T. D. 2690; art. 106.)

The term "dividend," as used in war excess-profits tax regulations, has the same meaning as in section 31 of the act of September 8, 1916, as amended by the act of October 3, 1917, to wit, any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its stockholders, whether in cash or in stock, which stock dividends shall be considered income, to the amount of earnings or profits so distributed; unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 9.)

The act of September 8, 1916, and the act of October 3, 1917, in excluding dividends declared out of earnings or profits that accrued prior to March 1, 1913, are not intended to be declaratory of the meaning of the term "dividends" in the act of October 3, 1913. (T. D. 2731; June 11, 1918. Ct. Dec.)

A dividend declared and paid by one corporation in the stock of another is not a "stock dividend" within the accepted meaning of that term. (T. D. 2732; June 11, 1918. Ct. Dec.)

Periodical refunds by cooperative organizations, which are sometimes called "dividends," are wholly different from ordinary dividends based on stock holdings and need not be listed as income by recipient; where recipient claims right to deduct as business expenses any expenditures on which refund is based, sum claimed as deduction must be reduced in proportion to refund received. (T. D. 2737; June 19, 1918.)

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Estate tax.

See "Estate Tax."

Income tax.

See "Income Taxes (Individuals)."

DIVORCE.

Alimony—Income tax.

Alimony or allowance based on separation agreement is not income to recipient thereof, nor is it an allowable deduction for the person paying same. (T. D. 2690; art. 4.)

DOCTORS.

See "Physicians."

DOCUMENTARY STAMPS.

See "Stamp Taxes."

DOING BUSINESS.

Definition.

The definition of the term "doing business," as used in corporation-tax act of August 5, 1909, which has been judicially approved is that which occupies the time, attention, and labor of man for the purpose of a livelihood or profit. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

DOMESTIC.

Definition.

The term "domestic," as used in war excess-profits tax regulations, means created under the law (statutory or other) of United States or any State thereof, Alaska, Hawaii, or the District of Columbia, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

DOMESTIC CORPORATIONS.

See "Corporations."

DONATIONS.

See "Gifts."

DRAFTS.

Stamp tax—Bill of lading attached.

Ordinary sight draft with bill of lading attached is not taxable, but draft expressed to be payable at sight "on arrival of car," or containing memorandum to hold until arrival of car, is; sight draft accompanied by instructions outside the instrument, as "Do not present until arrival of car," or some such memorandum, is not taxable. (T. D. 2682; Mar. 26, 1918.)

—— Delivery.

If a draft drawn abroad on a foreign drawee, with a foreign payee, passes through a bank here in the course of collection, no tax is payable unless it should be delivered by an agent of the drawer to an agent of the payee within the United States. (T. D. 2682; Mar. 26, 1918.)

The rule that a taxable draft or check becomes subject to the tax imposed by Schedule A of Title VIII of the act of October 3, 1917, if delivered within the territorial jurisdiction of the United States, means that the tax does not attach to a draft drawn and accepted here, but delivered abroad, whether before or after acceptance, but does attach to a draft delivered here, whether before or after acceptance, although drawn and accepted abroad; in general, a draft sent through the mail is delivered when and where deposited in the mail addressed to the payee or the indorsee from the drawer. (T. D. 2682; Mar. 26, 1918.)

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Stamp tax—Continued.

—— **Delivery**—Continued.

Payee or indorsee from drawer must see to it that drawer pays tax before delivery; the word "accept" is used in section 802 of the act in the general sense of "receive," not in the special sense peculiar to drafts; no drawee accepting an unstamped undelivered draft would violate the law, but if the draft has already become taxable because of a prior delivery, acceptor must be sure that stamps are affixed. (T. D. 2682; Mar. 26, 1918.)

The general rule that a taxable draft becomes subject to the tax concurrently with its delivery means that the tax attaches, not when it is signed by the drawer or presented to the drawee for acceptance, or accepted by him, but when it is delivered to the payee, if drawn on a third person, or negotiated by the drawer, if drawn to his order, whether such delivery or negotiation takes place before or after acceptance; if draft was drawn and accepted before passage of act of October 3, 1917, but not delivered or negotiated until afterwards, tax is payable; if draft is presented to drawee for acceptance and discounted by him, stamps must be first affixed by drawer. (T. D. 2682; Mar. 26, 1918.)

The stamp tax on drafts imposed by Schedule A, of Title VIII, of the act of October 3, 1917, attaches to drafts at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand. (T. D. 2682; Mar. 26, 1918.)

—— **Exports.**

Because of the constitutional restriction that no tax or duty shall be laid on articles exported from any State, drafts with bills of lading attached covering goods in course of exportation are not subject to the tax. (T. D. 2682; Mar. 26, 1918.)

—— **Sight draft.**

A sight draft accepted and paid for the drawee by the collecting bank, which holds it and charges interest until the drawee takes it up, is not taxable. (T. D. 2682; Mar. 26, 1918.)

A draft might be drawn stating no time for payment, which would class it as a sight draft, and be accepted at 90 days which would change its nature; if negotiated or delivered before acceptance holder would be obliged to stamp thereon acceptance, in default of which both he and acceptor would be liable for statutory penalty. (T. D. 2682; Mar. 26, 1918.)

—— **Time drafts.**

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska) and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

DRAWBACKS.

Exports—Alcohol.

Where alcohol is exported in its natural condition, drawback thereon allowed only when alcohol is exported in the distillers' original casks or packages, and allowance is limited by section 3329, Revised Statutes, to 90 cents per proof gallon; where the alcohol is used in manufacture of flavoring extracts, medicinal, or toilet preparations for export, the drawback should include both tax of $1.10 per proof gallon, and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

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Exports—Continued.

—— **Automobiles.**

There is no drawback on exported automobiles, automobile trucks, etc. (T. D. 2591; Nov. 24, 1917.)

—— **Narcotics.**

Manufacturers of narcotics may lawfully furnish to any duly accredited special agent or customs agent of the Treasury Department, samples required in order to make analyses to establish allowance of drawback on manufactured drugs exported from this country, taking receipt of such officer therefor, which will be filed with official narcotic order forms and records. (T. D. 2487; Apr. 28, 1917.)

DRUGS.

See "Medicinal Preparations."

Narcotics.

See "Narcotics."

DRUGGISTS.

See "Pharmacists."

DUES.

Advance payment.

Where dues are paid in advance for calendar year 1917, the tax imposed by section 701 of the act of October 3, 1917, is payable on one-sixth of the full amount paid for such calendar year and should be collected at time of first payment of dues for 1918. (T. D. 2681; Mar. 26, 1918.)

Assessment dues.

Tax imposed by section 701 of act of October 3, 1917, is 10 per cent of any amount paid as dues or membership fees (including initiation fees and any payment required for becoming or remaining a member as well as extraordinary dues or assessments) to any social, athletic, or sporting club or organization where such dues or fees are in excess of $12 per year; where all dues or fees payable in any one year aggregate more than $12, tax attaches to each payment by member; if dues exclusive of initiation fee are not in excess of $12 a year, no tax is payable except for members paying such fee. (T. D. 2681; Mar. 26, 1918.)

Athletic and sporting clubs.

Athletic and sporting clubs include boating, tennis, golf, boxing, canoe, fishing, and hunting clubs, and any organizations for practice or promotion of athletics or sports; Commissioner of Internal Revenue shall determine whether a club or organization is an athletic or sporting club within meaning of section 701 of act of October 3, 1917, upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

Basis of tax.

Tax imposed by section 701 of act of October 3, 1917, is 10 per cent of any amount paid as dues or membership fees (including initiation fees and any payments required for becoming or remaining a member, as well as extraordinary dues or assessments) to any organization where such dues or fees are in excess of $12 per year; where all dues or fees payable in any one year by a member of a club will aggregate more than $12, tax attaches to each payment by such member; if the dues exclusive of the initiation fee are not in excess of $12 a year, no tax is payable except from members paying such fee; tax is payable on life membership fees when paid. (T. D. 2681; Mar. 26, 1918.)

Boating clubs.

Boating clubs are included within the term "athletic and sporting clubs," as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

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Boxing clubs.

Boxing clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Business organizations.

Tax imposed by section 701 of act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

Dues paid commercial club conducted primarily for commercial objects are not taxable for special reason that chief social feature, that of the restaurant, besides being maintained as an adjunct to the luncheon meetings, is regularly opened to the members, local business and civic organizations, and used by them for purposes which the club is engaged in furthering. (T. D. 2795; Feb. 26, 1919.)

Dues paid for membership privileges in chamber of commerce or other primarily commercial organization are taxable if privileges include clubhouse facilities such as are afforded by ordinary city social club. (T. D. 2795; Feb. 26, 1919.)

Canoe clubs.

Canoe clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Chambers of commerce.

Tax imposed by section 701 of act of October 3, 1917, does not attach to dues paid to chambers of commerce or other primarily business organizations. (T. D. 2681; Mar. 26, 1918.)

Clubs included within "social, athletic, or sporting."

Commissioner of Internal Revenue shall determine whether a club or organization comes within scope of words "social, athletic, or sporting," as used in section 701 of the act of October 3, 1917, upon being furnished charter or constitution and by-laws of the organization, statement as to its actual activities and practices, and such other information as he may deem pertinent to the determination; "social club" defined; what clubs are included within "athletic and sporting clubs"; tax does not attach to dues paid to chambers of commerce or other primarily business organizations; dues and fees paid by residents of United States to clubs located in foreign country and having no branches or organization here, not taxable. (T. D. 2681; Mar. 26, 1918.)

Collection of tax.

Where dues are paid in advance for calendar year 1917, tax is payable on one-sixth of full amount paid for such calendar year, and should be collected at time of first payment of dues for 1918. (T. D. 2681; Mar. 26, 1918.)

Commercial clubs.

See "Business organizations," *ante*.

Computation of tax.

Tax imposed by section 701 of act of October 3, 1917, is 10 per cent of any amount paid as dues or membership fees (including initiation fees and any payments required for becoming or remaining a member, as well as extraordinary dues or assessments) to any organization where such dues or fees are in excess of $12 per year; where all dues or fees payable in any one year by a member of a club will aggregate more than $12, tax attaches to each payment by such member; if the dues exclusive of the initiation fee are not in excess of $12 a year, no tax is payable except from members paying such fee; tax is payable on life membership fees when paid. (T. D. 2681; Mar. 26, 1918.)

Liability to the tax imposed by section 701 of the act of October 3, 1917, depends upon the period for which the dues are paid; tax must be paid upon all dues representing membership privileges for the time elapsing after October 31, 1917, regardless of time of payment, except in case of life membership fees paid before November 1, 1917; in case of dues paid in advance for calendar year 1917, tax is payable on one-sixth of full amount paid for such calendar year and should be collected at time of first payment of dues for 1918. (T. D. 2681; Mar. 26, 1918.)

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Date tax effective.

Liability to the tax imposed by section 701 of the act of October 3, 1917, depends upon the period for which the dues are paid; tax must be paid upon all dues representing membership privileges for the time elapsing after October 31, 1917, regardless of time of payment, except in case of life membership fees paid before November 1, 1917; in case of dues paid in advance for calendar year 1917, tax is payable on one-sixth of full amount paid for such calendar year and should be collected at time of first payment of dues for 1918. (T. D. 2681; Mar. 26, 1918.)

Exemptions.

Dues or fees paid to fraternal orders not falling within the express exemption of section 701 of the act of October 3, 1917, are not subject to the tax imposed by that section, if the purposes and practices of the order to which they are paid are religious, benevolent, or educational, and any social activities of the order are incidental and subordinate; where the purposes or practices of any fraternal order are primarily social in character, dues or fees paid to it are subject to the tax. (T. D. 2681; Mar. 26, 1918.)

Fishing clubs.

Fishing clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Foreign clubs.

Dues and fees paid by residents of United States to clubs located in foreign country and having no branches or organizations here, are not subject to tax imposed by section 701 of act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Fraternal orders.

Dues or fees paid to fraternal orders not falling within the express exemption of section 701 of the act of October 3, 1917, are not subject to the tax imposed by that section, if the purposes and practices of the order to which they are paid are religious, benevolent, or educational, and any social activities of the order are incidental and subordinate; where the purposes or practices of any fraternal order are primarily social in character, dues or fees paid to it are subject to the tax. (T. D. 2681; Mar. 26, 1918.)

Golf clubs.

Golf clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Golf club dues for which the member receives as one of the privileges of membership a season ticket for a municipal golf course are subject to tax without deducting part paid by club to city for the season ticket. (T. D. 2782; Dec. 24, 1918.)

The dues taxable include a sum paid by a member in addition to his regular dues to obtain privileges of the club grounds for members of his family. (T. D. 2795; Feb. 26, 1919.)

Hunting clubs.

Hunting clubs are located within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Initiation fees.

Where dues, exclusive of initiation fee, are not in excess of $12 a year, no tax is payable except from members paying such fee; daily records required to be kept by clubs or organizations showing number of members paying initiation fees, and the amount of such fees each day, together with amount of tax; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729 and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made. (T. D. 2681; Mar. 26, 1918.)

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Initiation fees—Continued.

The rule of T. D. 2646 that a share of stock required as condition of becoming member of club is regarded as an initiation fee applies to a club organized as a business corporation and having stockholders who are not members. (T. D. 2795; Feb. 26, 1919.)

Life membership fees.

Tax imposed by section 701 of act of October 3, 1917, is payable on life membership fees when paid; tax must be paid upon all dues representing membership privileges for any time elapsing after October 31, 1917, regardless of time of payment, except in case of life membership fees paid before November 1, 1917. (T. D. 2681; Mar. 26, 1918.)

Payment of tax.

Where dues are paid in advance for calendar year 1917, tax is payable on one-sixth of full amount paid for such calendar year, and should be collected at time of first payment of dues for 1918. (T. D. 2681; Mar. 26, 1918.)

Penalties.

In addition to penalties provided by section 1004 of the act of October 3, 1917, for failure to make the return, other punishment for failure to comply with law and Regulations is prescribed by section 3176, Revised Statutes, as amended, and by other sections of internal-revenue laws. (T. D. 2681; Mar. 26, 1918.)

Records.

Daily records shall be kept by clubs or organizations showing classes of memberships, number of members paying dues or initiation fees, and amount of such dues or initiation fees each day under each classification, together with amount of tax, which daily record shall remain on file for two years, in such manner as to be readily accessible to internal-revenue officers. (T. D. 2681; Mar. 26, 1918.)

Returns—Monthly returns.

Monthly returns, which shall be a recapitulation of daily records, kept by clubs or organizations required to be made in duplicate on Form 729, and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made; copies of returns shall remain on file for two years, in such manner as to be readily accessible to internal-revenue officers. (T. D. 2681; Mar. 26, 1918.)

—— Penalties for failure to make.

In addition to penalties provided by section 1004 of the act of October 3, 1917, for failure to make the return, other punishment for failure to comply with law and Regulations is prescribed by section 3176, Revised Statutes, as amended, and by other sections of internal-revenue laws. (T. D. 2681; Mar. 26, 1918.)

—— Persons required to make.

Every person, corporation, partnership, or association, receiving any payments for dues or fees must, at the time, collect the tax from the persons making such payments, including in such collection the amount of unpaid tax, if any, on dues, or fees received prior thereto, covering any period since October 31, 1917, and make monthly return and payment of collections, to collector of district, as provided in section 503 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Social clubs.

Any organization which maintains quarters or arranges periodical dinners or meetings for purpose of affording its members opportunity of congregating for social intercourse, is a social club within the meaning of section 701 of the act of October 3, 1917, unless its social features are subordinated and merely incidental to the furtherance of business or other special interests; Commissioner of Internal Revenue shall determine whether club or organization comes within words "social, athletic, or sporting," upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

Dues or fees paid to fraternal orders not falling within the express exemption of section 701 of the act of October 3, 1917, are not subject to the tax imposed by that section, if the purposes and practices of the order to which they are paid are

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Social clubs—Continued.

religious, benevolent, or educational, and and social activities of the order are incidental and subordinate; where the purposes or practices of any fraternal order are primarily social in character, dues or fees paid to it are subject to the tax. (T. D. 2681; Mar. 26, 1918.)

Those social facilities afforded by a commercial club which are kept open freely to the public and not limited to members are not sufficient to constitute the club a social club for purposes of the dues tax. (T. D. 2782; Dec. 24, 1918.)

Tennis clubs.

Tennis clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees, to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

DUTCH ADMINISTRATION OFFICES.

Income taxes.

Dutch administration offices as the registered, but not the actual, owners of stock of domestic or other resident corporations in the United States, required to disclose identity of actual owners of said stock for purposes of the withholding provisions of section 13 (f) of act of September 8, 1916, as amended by act of October 3, 1917; returns; forms; certificates; T. D. 2386, revised. (T. D. 2669; Mar. 9, 1918.)

EDUCATIONAL INSTITUTIONS.

Admissions to entertainments for.

Where proceeds of admissions inure exclusively to benefit of educational institutions, societies or organizations, admissions are not taxable; character of organization for which benefit is given and not purpose of particular benefit is controlling; admissions to any entertainment for charity are taxable if funds are administered by any persons or organization other than religious, educational, or charitable institutions, societies, or organizations; admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or to the college. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization claiming exemption from collecting tax on admissions by reason of being educational, required to file with collector or district affidavit upon stated form, prior to conducting any entertainment of amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal-revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Alcohol withdrawn for use in.

See "Alcohol."

Capital stock tax.

Corporation or association organized and operated exclusively for educational purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income tax—Exemptions.

Corporations or associations organized and operated exclusively for educational purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit, setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of corporations or associations organized and operating exclusively for educational purposes is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is

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Income tax—Exemptions—Continued.

credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

—— Net income.

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

—— Salaries under Smith-Lever Act.

Where employees of universities receiving salaries paid in part or in whole from funds received under the Smith-Lever Act of May 8, 1914, are officers or employees of a State, they are not required to include in their income tax returns as taxable income the salaries so received; if organization of college is one which belongs to State and which State governs, legislature may vacate offices, elect new professors, and do whatever it thinks necessary in management of the college, but if colleges are governed by trustees not directly responsible to State legislatures, employees receiving salaries paid in part from Smith-Lever funds are not employees of the State, and are not exempt from tax on that ground. (T. D. 2668; Mar. 9, 1918.)

EDUCATIONAL PURPOSES.

Moving-picture films—Excise taxes.

There is no exemption from tax imposed by section 600 of the act of October 3, 1917, in the case of films used exclusively for educational, charitable, or religious purposes. (T. D. 2719; Art. XII.)

ELECTIONS.

Campaign contributions—Income tax.

Contributions by corporations for campaign expenses are not an ordinary and necessary expense in the operation and maintenance of the business, and are therefore not deductible. (T. D. 2690; art. 143.)

EMBEZZLEMENT.

Income taxes—Deduction of losses.

Losses of insurance companies other than mutuals, but including mutual life and mutual marine, for agency balances or other amounts charged off as worthless, and losses by defalcation, premium notes voided by lapse, provided such notes have at some time been included in gross income for income tax purposes, may be deducted. (T. D. 2690; art. 240.)

EMPLOYEES.

Admissions.

Bona fide employees when admitted free are not taxable under section 700 of act of October 3, 1917; employees include persons necessary to the production of the performance or entertainment who are not admitted as spectators and who do not occupy seats or space intended for the use of spectators, except where such occupancy is necessary to the performance of duties of such persons; baseball reporters and telegraphers are exempt, as are employees of management or of concessionaires selling refreshments to patrons, and newsboys selling newspapers; persons recovering or aiding in custody of property necessary to performance may be admitted tax free, but newspapers critics and reporters occupying space in audience must pay tax; doctors and attorneys for theaters are exempt when entering theater in course of employment. (T. D. 2681; Mar. 26, 1918.)

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Contracts for services—Stamp tax.

Contracts for performance of services are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Fidelity insurance.

See "Insurance."

Governmental—Exemption of charges for services furnished by carriers.

See "Transportation Tax."

Income tax—Accident compensation.

Payments made to injured employee by corporation under the accident compensation laws of the several States constitute taxable income of the employee. (T. D. 2570; Nov. 6, 1917.)

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

Proceeds of accident insurance policy received by individual on account of personal injuries sustained through accident are not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

—— Compensation for services.

Compensation for service paid for on percentage of net profits is income to employee and must be accounted for as such; where service is rendered for stipulated price, wage, or salary, and paid with something other than money, stipulated value of service in terms of money is value at which thing taken in payment is to be considered for purpose of tax; in absence of stipulation as to value of service, payment being made with something other than money, market or reasonable value of thing taken in payment is amount to be included as income. (T. D. 2690; art. 4.)

In case of compensation for service, where no determination of compensation is had until completion of service, amount received is income to be accounted for as for calendar year of receipt; where service and payment period is divided by end of taxable year, compensation for period so divided will be accounted for as income for year in which payment is actually received; where compensation is by fee, or is of such nature that no part of fee or compensation becomes due until completion of service, entire amount received should be accounted for as for year of receipt; persons having salary by the year and in addition commissions on sales, salary to be paid at time commissions are determined, and determination thereof is in succeeding calendar year, entire amount should be accounted for as income of calendar year of receipt. (T. D. 2690; art. 4.)

—— Deductions.

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Amounts paid from salary received from all services rendered are deductible as business expense when expenditures are occasioned by the service in respect of which salary is paid. (T. D. 2690; art. 8.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additonal compensation for services actually rendered; if, when added to salaries, they do not exceed reasonable compensation for services, they will be regarded as part of the wage or hire, and therefore an ordinary and necessary expense of operation and maintenance, and as such, will be deductible. (T. D. 2690; art. 8.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships, to nonresident alien employees for services rendered entirely in a foreign country, and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will

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Income tax—Continued.

—— **Deductions**—Continued.

not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art. 32.)

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Donations made to employees and others, and which do not have in them the element of compensation, are considered gratuities and are not allowable deductions from gross income as expenses of operation or maintenance or under any other item. (T. D. 2690; art. 135.)

Amounts paid for pensions to retired employees or to their families or other dependent on them, or on account of injuries received by employees, or lump-sum amounts paid as compensation for injuries, are proper deductions as ordinary and necessary expenses; such deduction shall be limited to amount not compensated for by insurance or otherwise; no deduction shall be made for contributions to pension fund resources of which are held by corporation, amount deductible in such case being amount actually paid to employee. (T. D. 2690; art. 136.)

When amount of salary of officer or employee is paid for limited period after his death to his widow or heirs in recognition of services rendered by individual, no service being rendered by widow or heirs, such payment is not ordinary and necessary expense of transacting business and may not be deducted. (T. D. 2690; art. 137.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered by employees; if, when added to stipulated salaries, they do not exceed a reasonable compensation for services rendered, they will be regarded as a part of the wage or hire of the employee and are deductible as an ordinary and necessary expense of operation and maintenance. (T. D. 2690; art. 138.)

Where salaries of officers or employees who are stockholders ar found to be out of proportion to volume of business transacted or excessive when compared with salaries of like officers or employees of other corporations doing similar kind or volume of business, amount so paid in excess of reasonable compensation for services will not be deductible, but will be treated as distribution of profits. (T. D. 2690; art. 138.)

Special payments made to officers or employees who are stockholders, in guise of additional salaries or compensation, amount of which is based upon or bears close relationship to stockholdings of such officers or employees, or capital invested by them in business of company, will be regarded as special distribution of profits or compensation for capital invested, and not payment for services rendered; payments under such latter conditions, being in nature of dividends, will not be deductible. (T. D. 2690; art. 138.)

Compensation paid employee in capital stock of corporation may be deducted as expense if so charged on books at actual value of such stock. (T. D. 2690; art. 240.)

Premiums paid on life insurance policies covering lives of officers, employees, or those financially interested in any trade or business, conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing net income of insurance companies other than mutuals, but including mutual life and mutual marine. (T. D. 2690; art. 240.)

—— **Information at source.**

Bills paid to employees for board and lodging while traveling under orders or when employee is employed on a salary basis do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Payments made by branches of business houses located in foreign countries to alien employees serving in foreign countries need not be reported. (T. D. 2670; Mar. 11, 1918.)

Payments made to employees in factories where the brass check or number system was in use in 1917 and a record of sufficient detail does not exist and can not be obtained because employees are not longer in the employ of the company do not require reports of information; in all such cases an accounting system must be installed that will enable such employers to keep an accurate check so that full information can be given in the future. (T. D. 2670; Mar. 11, 1918.)

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Income tax—Continued.

—— **Information at source**—Continued.

Returns of information will not be required from disbursing officers of payment made to civilian employees of the United States Government. (T. D. 2670; Mar. 11, 1918.)

Heads of branch offices and subcontractors employing labor and keeping the only complete record of payments should file returns of information direct with Commissioner of Internal Revenue, Sorting Division, Washington, D. C.; when record is kept of payments at both main office and branch office return should be filed by former; when no address is available, last-known post-office address must be given, as well as street and number when possible; information as to whether employee is single, head of a family, or married should be given when possible. (T. D. 2670; Mar. 11, 1918.)

When living quarters, such as camps, are furnished for the convenience of the employer only, the cost need not be added to the compensation of the employee; "living quarters" referred to in paragraph 235, Regulations No. 33, revised, are quarters furnished for the benefit and convenience of employees only. (T. D. 2670; Mar. 11, 1918.)

In case of employer having large number of employees who are moved from place to place and who consequently has no complete record of annual payments to them at any one place, salary of two representative months may be taken to establish a fair monthly wage, and unless yearly payment based on this estimate in the case of an employee amounts to $800 or more no return of payments to such employee is required for 1917. (T. D. 2670; Mar. 11, 1918.)

Salary, wages, and other compensation for services rendered in December, 1917, but paid in 1918, need not be reported, unless the amount was fully due and passed to the credit of the individual in December, 1917. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying compensation, wages, etc., of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render true and accurate return, setting forth the amount of such compensation, wages, etc., and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Where a person receives a cash compensation for services rendered and in addition thereto living quarters, the value to such person of the quarters furnished constitutes income subject to tax, and return under section 28 is required in each case where cash compensation received plus the value of living quarters furnished equals or exceeds $800 for a tax year. (T. D. 2690; art. 34.)

Mutual protective associations.

Associations composed of employed or others who band themselves together for mutual protection in issuing life and casualty insurance are subject to tax under paragraph (c) of section 504 of act of October 3, 1917, unless exempted under paragraph (d) of such section. (T. D. 2588; Nov. 21, 1917.)

Treasury Department.

Collection of money from officers and employees of Treasury Department in field service for giving of personal gifts to officers and employees holding office, or to incoming or retiring officials, prohibited; decision as to whether subscription lists may be circulated for worthy national institutions rendering service to military and naval forces of Government, such as Red Cross, rests with head of each office in field service. (T. D. 2862; June 12, 1919.)

Wines furnished ranch hands.

Wines furnished ranch hands or boarders are not exempt from tax under section 402(b) of act September 8, 1916, as being for family use. (T. D. 2765; Oct. 21, 1918.)

ENDOWMENTS.

Income taxes.

There should be reported as payments on policies by insurance companies other than mutuals, but including mutual life and mutual marine, all death, disability, or other policy claims (other than dividends) paid within year, including fire, accident and liability losses, matured endowments and annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. (T. D. 2690; art. 240.)

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ENEMIES OF UNITED STATES.

See "Alien Property Custodian."

Income-tax returns.

Extension of time granted for such period as may be necessary, not exceeding 90 days after proclamation by President of end of war with Germany, for filing returns of income for 1917 and subsequent years, under sections 6 (c), 8 (b) (c), and 13 (b) (c) of act of September 8, 1916, as amended, and under war income-tax act of October 3, 1917, by or for enemies or allies of enemies, as defined by section 2 of the trading-with-the-enemy act of October 6, 1917, not holding license granted under such act; return of information required; duties of persons controlling money or property for any such enemy or ally of enemy. (T. D. 2673; Mar. 18, 1918.)

ENTERTAINMENTS.

See "Admissions"; "Occupational Taxes."

ENTIRETIES.

Estate tax.

If property conveyed to husband and wife is taken by each in entirety and in such manner that each was owner of all, and upon death of either no new interest or title vested in survivor, one-half of property thus jointly owned should be returned as portion of gross estate of decedent husband or wife as case might be; wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of showing that surviving spouse owned any interest therein is upon such spouse. (T. D. 2450; Feb. 14, 1917.)

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by fiduciaries holding property of any kind, jointly or in entirety, for decedent and another or others. (T. D. 2454; Feb. 28, 1917.)

ESSENCES.

See "Extracts."

Excise taxes.

Concentrated essences sold to druggists and manufacturers for making toilet articles, but not for use as such, are not subject to tax imposed by section 600 (g) of act of October 3, 1917. (T. D. 2719; Art. XVIII.)

ESTATES.

Income taxes—Claim.

Claim for refund of assessed tax and penalties should be made in name of party assessed, if living, but if dead, claim should be made in name of executor or administrator, and certified copies of letters of administration or letters testamentary or other similar evidence should be affixed to claim to show that claimant is administrator, etc. (T. D. 2690; arts. 265, 266.)

—— Collection and payment.

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15 and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

—— Exemptions.

Where husband or wife having taxable income dies within calendar year, and full exemption for year is used by personal representative in making return, if survivor is also required to make return at close of year for income received within that year, the full personal exemption, according to marital status of survivor at close of year, may be claimed in return of income. (T. D. 2690; art. 14.)

Where person having taxable income dies within calendar year, his personal representatives in making return for him may claim full exemption granted by statutes for calendar year. (T. D. 2690; art. 14.)

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Income taxes—Continued.

—— **Gross income.**

Administrators or executors may, upon final accounting, file return for income of estate for calendar year in which administration was closed, attaching thereto copy of certificate, under seal, setting forth fact of final accounting and discharge; liability for return is fixed as of December 31, and return will be required in accordance with provisions of law existing on that date. (T. D. 2690; art. 26.)

Administrators or executors should pay tax found by return for calendar year in which administration was closed to be due immediately upon receipt of notice and demand for payment of such tax. (T. D. 2690; art. 26.)

Where, during period of administration, executor converts estate into money to settle estate and close administration, realizing a profit which with other income exceeds $1,000, return should be made covering period of administration, in which should be included all gains, profits, and income during such period. (T. D. 2690; art. 29.)

Liability for tax due from deceased person, or from his estate, attaches to estate itself, and when by reason of distribution of estate and discharge of executor or administrator it shall appear that collection of tax can not be made from executor or administrator, collector will make demand on distributees for their proportionate share of tax due and unpaid. (T. D. 2690; art. 29.)

Where income under the provisions of section 2 (b) of the act of September 8, 1916, is accounted for in return by the executor, administrator, or trustee, and the tax shall have been assessed and paid, income is thereby freed of all tax liability; return on Form 1040 or 1040A, subject to all deductions and exemptions, shall be made by executor or administrator for estate during period of administration, and entire tax paid thereon. (T. D. 2690; art. 29.)

Liability for payment of income tax attaches to the person of an executor or administrator up to and including date of discharge, regardless of fact that time in which claim is made and filed against estate has expired, or where, prior to distribution and discharge, executor or administrator had notice of obligations to Federal Government, or where he failed to exercise due diligence in determining whether or not such obligations existed. (T. D. 2690; art. 29.)

Proceeds of life insurance policies payable to estate of decedent, when received by executor or administrator are, in amount by which they exceed the premium or premiums paid by decedent, income of the estate to be accounted for under section 2 (b) of the act of September 8, 1916; return should be made on Form 1040 or 1040A. (T. D. 2690; art. 29.)

—— **Net income.**

Appraised value at time of death of testator is basis for determining gain or profit upon sale subsequent to death after March 1, 1913. (T. D. 2690; art. 4.)

Expenses of administration of estate, such as court costs, attorneys' fees, executor's commissions, etc., are chargeable against corpus of estate and are not allowable deductions. (T. D. 2690; art. 8.)

—— **Rate.**

Income of estates, in process of administration, or in trust for accumulation of income, is taxed as for an unmarried person. (T. D. 2690; art. 3.)

—— **Returns.**

Where net income of decedent from January 1 to date of death within year was $1,000 or over, if unmarried, or $2,000 or over, if married, return must be made by executor or administrator, who may claim all deductions and exemptions to which decedent would have been entitled; executors and administrators whose duty consists of administering on estate for purposes of its distribution stand, during period of administration, in stead of their principal and must make returns of income for estate and pay tax due. (T. D. 2690; art. 4.)

Ancillary administrator is merely an agent of the domiciliary administrator and should transmit to him all information as to income of estate received by ancillary administrator, so that original administrator may make return covering entire income of estate. (T. D. 2690; art. 26.)

Returns of individuals can not be accepted prior to close of calendar year; exception in cases of closed administration is matter of convenience to those concerned and is granted because period to be covered by return has completely elapsed. (T. D. 2690; art. 26.)

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Income taxes—Continued.

—— **Returns**—Continued.

—— —— **Inspection.**

An executor acts for his principal and not for the beneficiaries of the estate of his principal, and beneficiaries are not entitled, as such, to inspect returns filed by such executor. (T. D. 2690; art. 26.)

Return of individual is open to inspection by administrator, executor, or trustee of taxpayer's estate, or by duly constituted attorney in fact of such administrator, executor, or trustee, where maker of return has died; and, in discretion of Commissioner, by one of the heirs at law or next of kin of deceased person upon showing that he has a material interest which will be affected by information contained in the return. (T. D. 2961; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who makes the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

Inheritance, etc., taxes.

See "Inheritance Taxes."

ESTATE TAX.

Act published.

Sections 200 to 212 of act of September 8, 1916, relating to tax on estates, published for information of internal revenue officers and others concerned. (T. D. 2361; Sept. 11, 1916.)

Administrator or executor, absence of.

Where the circumstances are such that Government can not proceed against administrator or executor for satisfaction of requirements of act of September 8, 1916, there shall be no failure, because of inability to hold others in possession responsible, to collect whole tax due; if, after expiration of year from decedent's death, it has not been ascertained that administrator or executor has been appointed, collector will proceed to secure return and tax payment from beneficiary or beneficiaries, in accordance with Articles XVI and XVII of Regulations No. 37. (T. D. 2454; Feb. 28, 1917.)

Banks—Release of property.

Banking institutions holding money of nonresident decedents on deposit or for any specific purpose, so long as title rests in nonresident decedent, his estate, or his heirs, may not release to foreign administrator or executor or foreign beneficiary such money until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Brokers—Release of property.

Brokers holding as collateral securities belonging to nonresident decedent may not release to foreign administrator or executor or foreign beneficiary such securities until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Carriers—Release of property.

Ruling that local agent, representative, etc., may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made for satisfaction of tax lien does not apply to carriers of property of nonresident decedent while such property is in their charge for purpose of transit. (T. D. 2454; Feb. 28, 1917.)

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Collection.

Regulations No. 1 made to apply to methods of assessment and collection of tax imposed by act of September 8, 1916, for time being and until experience shall have demonstrated whether specific rules for assessment and collection of tax are required. (T. D. 2378; Art. XXIX.)

Under the act of September 8, 1916, where delay in payment of tax exceeds 60 days beyond due date, if collector has reason to believe payment is being arbitrarily withheld, or the Government is in danger of loss thereby, he shall report facts to Commissioner, and with approval of latter, he shall then proceed in accordance with section 208 to report facts to United States attorney, in order that action may be brought to subject property of decedent to be sold under judgment of United States court. (T. D. 2378; Art. XXIII.)

Community property.

If property conveyed to husband and wife is taken by each in entirety and in such manner that each was owner of all, and upon death of either no new interest or title vested in survivor, one-half of property thus jointly owned should be returned as portion of gross estate of decedent husband or wife, as case may be; wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of showing that surviving spouse owned any interest therein is upon such spouse. (T. D. 2450; Feb. 14, 1917.)

Thirty-day notice (Form 705) must be filed within 30 days after death of decedent whose estate is taxable, by surviving husband or wife, as case may be, for one-half the value, at decedent's death, of community property. (T. D. 2454; Feb. 28, 1917.)

Highest selling price of stocks and bonds on day of death fixed as value to be returned, or, if no sale, then highest bid price; if stocks or bonds are not listed on the market the executor may set up value that he deems true value as of day of decedent's death; if bulk of estate is community property its value should not be shown under item 4 of Form 706, but decedent's legal share should be returned under the several items. (T. D. 2513; July 16, 1917.)

Constitutionality of Act.

Title II, act of September 8, 1916, is constitutional. (T. D. 2976; Feb. 11, 1920. Ct. Dec.)

There is no distinction between the power of Congress to tax the right to transfer property at death and the power to tax the right to receive property from a decedent, which power was upheld in Knowlton v. Moore, 178 U. S. 41. (T. D. 2976; Feb. 11, 1920. Ct. Dec.)

Corporations—Duties of transfer agents, etc.

Transfer agents of corporate stock or bonds, receiving into possession for transfer purposes such personalty of nonresident decedent, may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Where transfer of stock or bonds or payment of dividends or interest theretofore legal property of decedent, whether resident or nonresident, is made to or upon order of an executor or administrator, acting under letters granted in the United States, Hawaii, or Alaska, the corporate agent or officer will not be required to file the 30-day notice, make return, or pay tax. (T. D. 2490; May 14, 1917.)

The 30-day notice must be filed when the corporation, its transfer agent, register, or paying agent is called upon to make transfer of stock or bonds, or to pay interest or dividends to any person succeeding in right thereto a stockholder or bondholder who, since September 8, 1916, has died domiciled outside the United States, Hawaii, or Alaska, unless such successor in interest is an executor or administrator of the nonresident decedent, acting under letters granted within the United States, Hawaii, or Alaska. (T. D. 2490; May 14, 1917.)

The 30-day notice will show the name and address at time of death of the nonresident decedent, and description and valuation of the property to be transferred or paid, and the name, designation, and address of the person to whom transfer or payment is made, and will be signed by the proper officer or agent of the corporation. (T. D. 2490; May 14, 1917.)

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Corporations—Duties of transfer agents, etc.—Continued.

The 30-day notice must be filed for dividends declared prior to the day of death, and for interest payable after death to the extent of the portion accrued to the day of death, and if notice be filed either within 30 days from death or immediately upon receipt of order for transfer or payment, transfer or payment need not be postponed; if tax is not paid within legal period, proceedings will be instituted under section 208 of the act of September 8, 1916, for the sale of the property and the payment of the tax. (T. D. 2490; May 14, 1917.)

Transfer agents who have orders for transfer of stock, standing in name of nonresident decedent may, instead of following procedure prescribed in T. D. 2490, forward Form 706 to its foreign office or to its representative in foreign countries, with instructions that foreign executor, administrator, or beneficiary of estate shall execute complete return on such Form 706 of all property belonging to decedent, situate in United States, including shares of stock in domestic corporation; such return to be subscribed and sworn to; personal representative must forward inventory filed in foreign country, and transfer agent will check return against inventory and send return to Commissioner of Internal Revenue with certificate that property disclosed by inventory to be situated in United States has been included in return; two copies of return will be forwarded to collector who will make assessment, and upon payment will send certified and receipted copy of return to transfer agent; notice on Form 704 and Form 714 must be filed with collector as heretofore. (T. D. 2708; Apr. 25, 1918.)

Debtors—Release of property.

Debtors in this country of nonresident decedents may not release to foreign administrator or executor or foreign beneficiary of decedent any property within this country at time of decedent's death until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Deductions from gross estate.

See "Net estate," *post.*

Examination of papers, etc.

Under section 210 of the act of September 8, 1916, the Commissioner, or any collector or law officer, or his authorized deputy or agent, has authority to examine any record, file, or paper containing, or supposed by the official to contain, any information concerning the estate of a decedent; refusal to exhibit, upon official's request, any such record, file, or paper renders person having custody of same liable to penalty not exceeding $500, recoverable, with costs, in civil action in name of United States: before reporting any such case to United States attorney, collector or agent should submit the facts to the Commissioner for advice. (T. D. 2378; Art. XXVIII.)

Exemptions.

See "Net estate," *post.*

United States bonds can not be excluded from gross or net estate in determining estate tax due. (T. D. 2449; Feb. 13, 1917.)

In the case of estates of all residents an exemption of $50,000 is allowed by the act of September 8, 1916, in determining value of net estate; in case of estates of nonresidents, no exemption is allowed, the only deductions from gross estate being certain proportion of such charges and losses as are allowed estates of residents. (T. D. 2378; Art. III.)

Gross estate.

Actual interest on bonds owned by decedent accrued to day of death must be returned as a portion of the gross estate. (T. D. 2483; Apr. 20, 1917.)

There should be included in gross estate the entire dividend declared prior to day of death on stock owned by decedent at time of death, whether received before or after that day; no part of dividend declared after death should be included in the gross estate. (T. D. 2483; Apr. 20, 1917.)

Under section 202 of act of September 8, 1916, bonds, both foreign and domestic, owned by nonresident decedents, which bonds are physically situate in the United States, Hawaii, or Alaska at the time of the owner's death, must be returned as a portion of the gross estate; where bonds are physically situate outside of the United States, Hawaii, or Alaska, they need not be so returned; bonds owned by residents

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Gross estate—Continued.

are taxable, regardless of where situate at time of owner's death. (T. D. 2530; Oct. 4, 1917.)

Value of real estate belonging to decedent resident within the United States at time of death, located outside of the United States, meaning thereby the States, Territories of Alaska and Hawaii, and the District of Columbia, should not be included in determining value of gross estate of decedent for purposes of estate tax. (T. D. 2735; June 17, 1918.)

Securities, such as shares of stock in domestic corporations which are property within the United States within the meaning of Title II of the act of September 8, 1916, deposited by an individual not resident within the United States with the British Treasury, for which certificates of deposit were issued, are at the death of such nonresident, if such certificates have not been transferred, a part of his gross estate and subject to estate tax. (T. D. 2772; Nov. 8, 1918.)

Gross estate of a decedent, as defined in section 202 of the act of September 8, 1916, includes insurance, not payable directly to a beneficiary named in the insurance contract, but passing as part of the administered estate; it includes also good will of claimant's business, if such good will possessed an actual monetary value. (T. D. 2378; Art. IV (1).)

Gross estate of decedent, as defined in section 202 of the act of September 8, 1916, includes not only property transferred by instrument effecting final disposition at transferor's death, but transfers of any kind, including gifts and sales that were not bona fide, where it can be established that such transfers were made in contemplation of death; wherever collector or agent shall have knowledge of gift, sale, or other transfer by decedent within two years prior to death he shall require that it be returned as part of decedent's gross estate; executors and administrators having knowledge of such transfers are required to set forth the facts upon their return of the estate. (T. D. 2378; Art. IV (2).)

Only such part of joint bank accounts or other property owned by decedent jointly with another or with others as tenants in entirety as can be shown never to have been owned by decedent can be excluded from his gross estate. (T. D. 2378; Art. IV (3).)

In case of property of decedent whose estate has no executor or administrator, all the property and interests of decedent, including property transferred in contemplation of, or intended to take effect at, his death, and his share in joint bank accounts or any other property owned by him jointly with another or with others as tenants in entirety, will be aggregated to determine the gross estate. (T. D. 2378; Art. V.)

Income earned during settlement of estate (in case of nonresidents, income earned on property situated in United States, Hawaii, and Alaska) is to be treated as part of gross estate; also, any appreciation in values after death of decedent and prior to distribution of net estate is to be included in gross estate on the return, since tax attaches upon transfer of net estate and losses sustained during administration are deductible. (T. D. 2378; Art. VII.)

Where decedent exercises general power of appointment as donee under will of prior decedent, property so passing is portion of gross estate of decedent appointor; when property is transferred by special or limited power of appointment, question of taxability will depend upon terms of instrument by which donee of the power acts, and facts in any such case should be reported fully to Commissioner. (T. D. 2477; Apr. 7, 1917.)

Property passing under general power of appointment, where the construction and effect of the power and the rights of the parties thereunder are governed by the laws of Pennsylvania, should not be included in the gross estate of the decedent exercising the power in a case arising under Title II of the revenue act of 1916. (T. D. 3088; Oct. 30, 1920. Ct. Dec.)

Imposition of tax.

Title II of the act of September 8, 1916, levies tax upon transfer of net estates of decedents dying on or after September 9, 1916, whether decedent be resident or nonresident of the United States. (T. D. 2378; Art. I.)

Local agent, etc.—Release of property.

Local agent, representative, etc., may not release to foreign administrator or executor or foreign beneficiary, property within this country at time of decedent's death until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made for satisfaction of tax lien; foreign adminis-

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Local agent, etc.—Release of property—Continued.

trator or executor wil not be recognized as relieving others in charge of decedent's property from responsibility for satisfying requirements of act unless and until he has made return and tendered payment of tax due; application of ruling to other custodians of property in this country. (T. D. 2454; Feb. 28, 1917.)

Nature of tax.

The estate tax is imposed not upon property but upon the right of the decedent to have his estate pass by will or intestacy. (T. D. 2976; Feb. 11, 1920. Ct. Dec.)

Net estate.

Limitation set up in concluding part of paragraph 1 of section 203 of the act of September 8, 1916, applies to all items enumerated in paragraph; there can not be deducted from gross estate in determining net estate liable to tax any funeral or other expenses or any losses and charges in excess of amounts allowable under laws of local jurisdiction as credits to administrators or executors in their accounts in probate courts. (T. D. 2453; Mar. 7, 1917.)

Where administrator or executor of nonresident decedent fails to file return as provided in section 203, paragrph (b), of act of September 8, 1916, and pay tax due no deductions whatever from gross estate will be allowed unless all property of nonresident decedent is shown to be located in this country and it is established that all has been returned for estate tax. (T. D. 2454; Feb. 28, 1917.)

No item of deductions can be taken in excess of an amount actually expended, or if expended, in excess of the limit, if any, set upon such expenditure, by the local law; mortgages resting on decedents' property should be shown under "Deductions," and full value of mortgaged realty should be shown under item 1 of "Gross estate"; similar rule must be applied with regard to hypothecated personalty; losses are strictly limited to those arising from fires, storms, or other casualty, and theft, when not compensated for by insurance or otherwise. (T. D. 2513; July 16, 1917.)

Amounts paid to States on account of inheritance, succession, or legacy taxes, are not "such other charges against the estate as are allowed by the laws of the jurisdiction", and are not deductible in arriving at amount of Federal estate tax. (T. D. 2524; Sept. 10, 1917.)

Under section 203 (a) (1) of the act of September 8, 1916, in order that there may be deduction from gross estate of amounts which have been expended for "support during the settlement of the estate of those dependent upon the descendent," there must first be shown a bona fide disbursement by the executor, for the support of those actually dependent upon the decedent, and in an amount authorized by the local law for that specific purpose. (T. D. 2531; Oct. 4, 1917.)

Where the State statute makes the tax a lien against property it is deductible as a "charge against the estate"; where it is a personal obligation of the taxpayer it is deductible as a "claim against the estate"; taxes are never deductible as "administration expenses." (T. D. 2771; Nov. 8, 1918.)

Where tax liability is created as of a date in the lifetime of the decedent, the whole tax is deductible, although the entire period for which the tax is laid has not elapsed, its exact amount is not then ascertainable, and payment is not required until a later date; if tax liability is created as of a date subsequent to decedent's death, no part of it is deductible, although part of the period for which tax is laid elapsed in decedent's lifetime. (T. D. 2771; Nov. 8, 1918.)

Where State statute or act of Congress, imposing tax on income, creates either a lien or a personal obligation, as of a date in the decedent's lifetime, the tax is deductible, and where lien or obligation is created as of a date subsequent to the decedent's death the tax is not deductible; the income and excess profits taxes imposed by acts of September 8, 1916, and October 3, 1917, constitute personal obligation of the taxpayer, and are deductible in accordance with these rules; the unpaid taxes for years prior to that in which decedent died are deductible; for the year in which decedent died, the tax upon income up to the date of death is deductible. (T. D. 2771; Nov. 8, 1918.)

Under the act of September 8, 1916, there may be deducted from gross estate, in cases of estates of residents (1) funeral expenses; (2) legitimate administration expense; (3) valid claims against the estate; (4) such mortgages against decedent's property as were existent and unpaid at time of decedent's death; (5) net losses, after all compensations from insurance or otherwise have been credited, arising during legal period of administration and caused by fires, storms, shipwreck, or other unavoidable accident or by theft; (6) support of decedent's dependents during legal period of administration, which must be limited to amount actually paid

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Net estate—Continued.

to such persons as were dependent upon decedent for support at the time of decedent's death; (7) such other legal charges against gross estate as may be allowed in court of competent jurisdiction; and (8) specific exemption of $50,000. (T. D. 2378; Art. VIII.)

Under the act of September 8, 1916, there may be deducted from gross estate, in case of estates of nonresidents, where estate is situate in the United States, Alaska, and Hawaii, the proportionate share of all funeral expenses, administration expense, valid claims against estate, mortgages against decedent's property, losses during legal period of administration caused by unavoidable accident, etc., not compensated for by insurance, support of decedent's dependents during legal period of administration, and such other legal charges as may be allowed in court of competent jurisdiction, equal to the share the whole gross estate in the United States, Alaska, and Hawaii is of the entire gross estate wherever situated; return filed by executor or administrator must show not only the value of the gross estate situated in the United States, Hawaii, and Alaska, but also the value of all property and interests, wherever situated, of decedent. (T. D. 2378; Art. IX.)

Inheritance tax imposed by laws of Pennsylvania is estate tax assessed against transfer of estate as a whole, and not legacy tax imposed on transfer of any particular interest; it is, therefore, a charge against the estate of a decedent in that jurisdiction within the meaning of section 203 of the act of September 8, 1916, and is deductible from gross estate in computing value of net estate subject to tax. (T. D. 3027; June 2, 1920. Ct. Dec.)

State inheritance tax, paid the State of New York, which reduced not the estate but the legatee's share, is not a "charge against the estate" allowed by the jurisdiction, and is not deductible in determining amount of estate for purposes of the Federal estate tax. (T. D. 2976; Feb. 11, 1920. Ct. Dec.)

Nonresident decedents.

Section 200 of the act of September 8, 1916, defines the United States as including continental United States, Alaska, and Hawaii; under this definition property in the United States of deceased residents of Porto Rico or the Philippine Islands is taxable as the property of nonresidents, though the tax is not imposed in Porto Rico or the Philippine Islands. (T. D. 2378; Art. II.)

In cases of nonresident decedents, stock owned in domestic corporation is to be treated as part of gross estate in United States, Hawaii, and Alaska; also property transferred in contemplation of, or intended to take effect at, death, and decedent's share in property owned jointly are to be treated as part of gross estate in the United States, Hawaii, and Alaska, if their situs was the United States, Hawaii, or Alaska, either at time of making transfer thereof or at time of decedent's death. (T. D. 2378; Art. VI.)

Notice—Beneficiaries.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by donees who have received within two years prior to decedent's death any gift of material value from decedent, or who have received at any time whatever gifts made by decedent in contemplation of, or intended to take legal effect at, death. (T. D. 2454; Feb. 28, 1917.)

Whenever collector receives notice from beneficiary and there are executors or administrators acting, he shall promptly inform executors or administrators of the beneficiary's name and address, in order that executor or administrator, in compliance with section 205 of the act of September 8, 1916, may ascertain such facts with regard to property possessed by beneficiary as the executor or administrator is required to show upon his return; executors or administrators will render this notice on Form 704; beneficiaries will render notice on Form 705. (T. D. 2378; Art. XII.)

—— Fiduciaries.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by fiduciaries holding property of any kind, jointly or in entirety, for decedent and another or others. (T. D. 2454; Feb. 28, 1917.)

—— Heirs.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by first taker after decedent of any of decedent's real property, where this passes, in accordance with local law, directly to heirs of decedent. (T. D. 2454; Feb. 28, 1917.)

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Notice—Continued.

—— **Nonresident decedents.**

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, for all property of any kind located or legally situate in this country, by agents or representatives, donees, transferees, trustees, or fiduciaries of decedent dying domiciled abroad, whether alien or citizen of United States; with what collector notice must be filed; extension of time for filing notice; notice to Commissioner of filing of notice. (T. D. 2454; Feb. 28, 1917.)

In cases of estates of nonresidents, the requirements set forth in the last preceding paragraph apply fully, except that the collector with whom any notice is to be filed is the collector in whose district the property liable for the tax is situated; if such property is located in more than one district the notice is to be filed with the collector at Baltimore, Md. (T. D. 2378; Art. XI.)

—— **Resident decedent.**

Persons who come into possession of property of decedent prior to appointment of executors or administrators required to give due and proper notice to collector of such fact; when executors or administrators are appointed they supersede all other persons in control of property whether such persons are in possession or not, and duty of giving notice and making returns for entire estate immediately devolves upon such executors or administrators. (T. D. 2372; Sept. 25, 1916.)

Regulation prescribing when 30-day notice (Form 705) must be filed by others than executors or administrators; surviving husband or wife; heirs; donees; trustees; fiduciaries; others holding at, or taking immediately upon decedent's death, property inclusive in gross estate under definition of section 202 of act of September 8, 1916. (T. D. 2454; Feb. 28, 1917.)

In cases of estates in hands of executors and administrators, the act of September 8, 1916, requires that within 30 days after issuance by the court of letters testamentary or letters of administration, a formal notice of such issuance be filed by the executors or administrators with the collector of the district in which decedent was a resident at the time of his death; the act also requires that any person coming into possession, prior to issuance of letters to executors or administrators, of any property of decedent, shall, within 30 days from day of acquiring possession, file a similar notice with the collector; the law contemplates also that all persons who shall have received within two years prior to death of decedent any material part of decedent's property should file similar notice with collector within 30 days after death of decedent; where no executors or administrators come into charge of property, burden of filing the 30-day notice is upon the individual beneficiaries. (T. D. 2378; Art. X.)

—— **Trustees.**

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by trustees holding property conveyed during lifetime by decedent in contemplation of death or with intent to provide for others than decedent at or after decedent's death, regardless of date of instrument making conveyance, or date of possession by trustee, or date of vesting of right of survivors to possession or enjoyment at or after decedent's death. (T. D. 2454; Feb. 28, 1917.)

Owner of property—Presumption.

Wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of proving that another person owned, prior to decedent's death, any interest therein, is upon the estate. (T. D. 2450; Feb. 14, 1917.)

Household goods and other chattels used by husband and wife in marriage relation are presumed to be property of husband, and, if widow of deceased claims same as her separate property, she has burden of establishing claim, failure to do which necessitates return of such goods as portion of deceased's gross estate. (T. D. 2529; Oct. 4, 1917.)

Payment—Discount.

Instructions, with tables, relating to computation of the 5 per cent discount to be allowed on estate tax when paid before one year after death of decedent; partial payments; report, on Form 22, of total amount collected. (T. D. 2497; June 4, 1917.)

Discount allowed on original payment of tax not allowed on payment of additional assessment. (T. D. 2570; Nov. 6, 1917.)

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Payment—Discount—Continued.

Section 207, act September 8, 1916, relates to time when tax is due, and collector is not required to exercise his discretion as to what amount will satisfy tax until due date thereof; no discount is allowable upon such payment, as necessarily payment can not be made before expiration of year following decedent's death. (T. D. 2756; Sept. 5, 1918.)

Section 204, act September 8, 1916, does not contemplate that immediately after decedent's death, or at any time before expiration of year executor may make partial payment on account of tax and receive credit for discount because of advance payment; if advance payment is to be made before due date, estate must be in position to file final return on Form 706, showing certain data; final return must be filed wherever advance payment is desired, and amount paid should be entered upon collector's assessment list for month in which paid as advance collection. (T. D. 2756; Sept. 5, 1918.)

Section 204 of the act of September 8, 1916, provides that the tax is due and payable one year from date of decedent's death, and discount at the rate of 5 per cent per annum is allowed for payment in advance; thus, if tax is paid two months before due date, a discount of one-sixth of 5 per cent of the total tax shown by the return as due is allowed. (T. D. 2378; Art. XXII.)

—— Excessive payment—Interest.

"Time of notification," within section 207 of the estate tax law, Title II, act of September 8, 1916, is the date on which notice of the amount of such "excess part of the tax" is received by the executor, whether such notice is given by mail or otherwise. (T. D. 2770; Nov. 6, 1918.)

—— Interest.

The act of September 8, 1916, provides that where tax is delayed in payment more than 90 days after due date, interest begins to run at rate of 10 per cent per annum and is computed from date of decedent's death to day of payment; provision is made, however, that if after investigation the collector determines the cause of the delay to be unavoidable, either because of necessary litigation or other condition, beyond control of those responsible for payment of tax, and the true tax can not be determined, interest shall be at rate of 6 per cent, running from date of decedent's death. (T. D. 2378; Art. XXIII.)

Where prior to final settlement of estate collector has accepted tax payment which he deems sufficient fully to cover estate's liability, such payment shall relieve from the accruing of further interest until such time, if ever, as it may be determined that the payment was insufficient; collector shall then notify persons liable for additional tax, and interest at 10 per cent per annum shall run upon due tax from date of collector's notice and demand until date of payment of entire additional tax due. (T. D. 2378; Art. XXV.)

—— Lien.

Any unpaid amount of tax due is a lien for 10 years upon all property of the decedent; under certain conditions outlined in section 209 of the act of September 8, 1916, a lien may attach to the property of a trustee or transferee of decedent. (T. D. 2378; Art. XXVII.)

—— Time.

Section 208 of the act of September 8, 1916, provides that in every case, except where a valid will provides otherwise, the tax shall be paid from the corpus of the estate by the executors or administrators before distribution to beneficiaries is made. (T. D. 2378; Art. XXVI.)

—— To whom made.

Tax imposed by act of September 8, 1916, may be paid to the collector or his deputy; collector will issue receipt in duplicate. (T. D. 2378; Art. XXIV.)

—— United States bonds.

United States bonds, bearing interest at a higher rate than 4 per cent and which have been owned by decedent continuously for at least six months prior to his death, will be accepted at par and accrued interest in payment of estate tax; reckoning of required period of ownership may begin on date when decedent acquired bonds, bearing interest at higher rate than 4 per cent, by purchase, by conversion of other bonds, or otherwise; entire tax may be paid in bonds, or tax may be paid partially

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Payment—Continued.

—— **United States bonds**—Continued.

in bonds or partially by cash or check, but collectors may not accept bonds, par value and accrued interest on which aggregates greater amount than the tax. (T. D. 2705; Apr. 23, 1918.)

Circular No. 132, issued under date of January 30, 1919, with reference to receipt of Liberty bonds in payment of estate or inheritance taxes, published. (T. D. 2802; Mar. 12, 1919. See also T. Ds. 2878, 2898, 2904, 2905.)

Rates of tax.

The initial rates of tax apply if decedent died between September 9, 1916, and March 2, 1917, inclusive; the rates 50 per cent higher apply if decedent died on or after March 3, 1917. (T. D. 2513; July 16, 1917.)

Increase in rates of taxation upon estates of decedents dying on or after October 4, 1917, does not apply to estates of decedents dying while serving in military or naval forces, etc.; net estates of such decedents are taxable at rates imposed in act of March 3, 1917. (T. D. 2535; Oct. 9, 1917.)

Refund.

Under section 207, act September 8, 1916, if amount of tax as finally determined is less than amount paid upon basis of tentative return, Commissioner will, upon filing claim on Form 46, make refund of excess payment; if amount of tax as finally determined exceeds amount so paid, Commissioner will notify executor of such excess; from time of such notification to time of final payment of such excess part of the tax interest will be added at rate of 10 per cent per annum. (T. D. 2756; Sept. 5, 1918.)

The provision of section 207 of the act of September 8, 1916, that where tentative payment of tax is made, sufficient in judgment of collector at that time to cover all tax liability, and later it is found that there has been an overpayment, refund of tax shall be made, applies regardless of whether it was filed within two years of date of tax payment. (T. D. 2378; Art. XXX.)

Returns—Advance payment.

Final return on Form 706, showing value of all assets as of date of decedent's death and the allowable deductions to which estate is entitled, value of net estate, and determined tax because of transfer of net estate, must be filed wherever advance payment is desired. (T. D. 2756; Sept. 5, 1918.)

—— **Beneficiaries.**

Where estates have no executors or administrators, or where any part of gross estate passes other than in charge of executors or administrators, the act of September 8, 1916, places upon the separate beneficiaries the duties with regard to filing 30-day notice and return and the payment of taxes that are otherwise imposed on executors and administrators; each such beneficiary is as fully liable to penalties provided as is executor or administrator; where property is held for beneficiary by guardians, trustees, or fiduciaries, 30-day notice and return may be executed by such representatives of the beneficiary. (T. D. 2378; Art. XVI.)

Each beneficiary making return for any part of estate is required by act of September 8, 1916, to give all information possible regarding any part of estate; final and complete return, where no executor or administrator acts, will be compiled by collector from the several returns of the individual beneficiaries; after determining total gross and net estate, rate of tax, and proportionate amount due from each beneficiary, collector shall notify each beneficiary accordingly and will enter upon assessment list the amount of tax apportionable to each. (T. D. 2378; Art. XVII.)

—— **Cash.**

If accrued income has been reduced to cash prior to death and is included in "cash in bank," or otherwise accounted for on the return, it should not be set up in the income column. (T. D. 2513; July 16, 1917.)

—— **Collectors' duties.**

Where return is materially false or incorrect, or where no return is filed, collector or his deputy, after investigation, shall make return and the Commissioner shall assess the tax thereupon. (T. D. 2378; Art. XVIII.)

—— **Description of realty.**

In describing realty it may not be necessary to recite whole description on the deed, but sufficient data should be given in each case to permit immediate and exact location by a Government officer. (T. D. 2513; July 16, 1917.)

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Returns—Continued.

—— **Extension of time for filing.**

Regulations No. 37, Article XXIX, amended, so that where executor has been granted extension of time not to exceed 90 days for filing return, collector may extend time until, in his judgment, reasonable ground for delay has been removed; interest attaches from close of original extension; collector to promptly report facts to Commissioner's office. (T. D. 2637; Jan. 24, 1918.)

At time tentative return is filed extension not ot exceed 90 days may be granted by collector in which to file final return; if after expiration of extension granted executor represents that he is still unable to determine tax and file final return, detailed statement as to reasons preventing determination of tax should be transmitted to bureau for consideration as to whether an additional estension should be granted; in every case where tentative return is filed, it should be plainly so designated and duplicate transmitted to bureau with statement by collector as to period of extension granted. (T. D. 2756; Sept. 5, 1918.)

—— **Gifts or transfers.**

Every gift or transfer of material value made or effected by decedent within two years prior to day of death must be shown under item 2 in executing Form 706; evidence showing whether gift or transfer was made in contemplation of death may be submitted with the return, and question of taxability will be ruled upon before assessment is confirmed; every gift or transfer made in contemplation of or intended to take effect after death must be returned. (T. D. 2513; July 16, 1917.)

If, in case of transfers made more than two years prior to decedent's death, the executors or administrators shall not include the value of the transfers upon the return of the estate, collectors shall not add such value to the gross estate until thorough investigation has been made, all the facts have been ascertained, and the collector shall have satisfied himself that the transfers were actually made with view of providing for beneficiary after or because of decedent's death. (T. D. 2378; Art. IV (2).)

Where executor has made return and collector finds that transfers of material value made within two years prior to decedent's death have been omitted, collector shall require executor to amend return by including such transfers in the gross estate, unless executor shall file conclusive evidence that transfers were not made in contemplation of death. (T. D. 2378; Art. IV (2).)

—— **Gross estate.**

Nonresident estate will show under items of the "Gross estate" only the gross estate within the United States, but will show under "Deductions" the entire legal deductions wherever incurred; it will then show in the space subjoined to "Recapitulation" the whole gross estate wherever situated and compute in accordance with Article XXIII, of Regulations No. 37, revised May, 1917, the allowable share of total deductions. (T. D. 2513; July 16, 1917.)

In case of estates of residents neither the 30-day notice nor the return can be required, except where gross estate exceeds $60,000 or net estate exceeds $50,000; wherever either of these conditions exists the 30-day notice and the return must be filed. (T. D. 2378; Art. XIV.)

—— **Nonresident decedents.**

Where administrator or executor fails to file return as provided in section 203, paragraph (b), of act of September 8, 1916, and pay tax due, collector shall require such return and tax payment from local agent, representative, etc.; where there is more than one holder in this country of decedent's property, collector will aggregate the separate returns, proceeding in accordance with Article XVII of Regulations No. 37. (T. D. 2454; Feb. 28, 1917.)

Returns on Form 706 required to be forwarded (in duplicate) by executor direct to Commissioner of Internal Revenue, Treasury Department, Washington, D. C., who will, after reviewing the returns, transmit them to proper collector; date on which return is received by Commissioner will be considered date of original filing with collector for purpose of determining whether or not return is filed within period prescribed by law. (T. D. 2691; Apr. 8, 1918.)

Return is required of estate of every nonresident leaving property within the United States, Alaska, or Hawaii, regardless of amount of property so left. (T. D. 2378; Art. XV.)

Requirements with relation to filing of returns in cases of estates of residents apply fully to cases of estates of nonresidents, except that collector with whom

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Returns—Continued.

—— **Nonresident decedents**—Continued.

notice or return is to be filed is the collector in whose district the property liable for tax is situated; if such property is located in more than one district, notice or return is to be filed with collector at Baltimore, Md. (T. D. 2378; Art. XX.)

—— **Penalties.**

The act of September 8, 1916, provides two separate penalties in connection with the 30-day notice and the return: (1) For false statement knowingly made on notice or return there is imposed a fine not to exceed $5,000, or imprisonment not exceeding one year, or both; (2) for failure, whether through neglect or otherwise, to file notice or return at times required, penalty of not exceeding $500, to be recovered with costs of suit, in civil action in name of United States. (T. D. 2378; Art. XXI.)

—— **Place of filing.**

If decedent maintained more than one residence, his principal residence (actual domicile) determines internal revenue district in which return must be filed and tax paid; if decedent was nonresident and his sole property within United States, Hawaii, or Alaska was stock or bonds of an American corporation, returns should be filed with collector in whose district head office of corporation is located, unless estate has representative in this country in charge of stocks or bonds, in which case return may be filed with collector in whose district representative has his office. (T. D. 2513; July 16, 1917.)

Whenever beneficiary files with collector notice of receipt of property which discloses that decedent was resident at time of death in another collection district, collector receiving notice shall forward it to proper collector and shall promptly inform beneficiary as to collection district in which return is required to be made and tax paid. (T. D. 2378; Art. XIX.)

—— **Tentative return.**

Section 207, act September 8, 1916, relates to time when tax is due and if at end of year following decedent's death, executor represents and collector is satisfied that amount of tax cannot be determined, return may be filed by executor, setting forth the then known assets and actual value as of date of decedent's death, determined and allowable deductions to which estate is entitled, value of net estate and tax due thereon, which return will be designated "tentative," and tax shown to be due should be paid and entered upon collector's assessment list for month in which paid. (T. D. 2756; Sept. 5, 1918.)

Return of gross and net estate must be filed with collector by executor or administrator within one year after decedent's death and before distribution or tax payment is made; where administration of estate is in such incomplete condition that correct information can not be given, tentative return may be filed and estimated tax may be paid at time return is filed; return must be in duplicate, one copy to be retained by collector and one forwarded by him to Commissioner; where tentative return is filed, complete return must be made on or before date of final payment of tax in full; in case of partial payment of tax in advance tentative return must be filed before collector will accept partial payment. (T. D. 2378; Art. XIII.)

—— **Value of stocks and bonds.**

Highest selling price of stocks and bonds on day of death fixed as value to be returned, or, if no sale, then highest bid price; if stocks or bonds are not listed on the market the executor may set up value that he deems true value as of day of decedent's death; if bulk of estate is community property its value should not be shown under item 4 of Form 706, but decedent's legal share should be returned under the several items. (T. D. 2513; July 16, 1917.)

Safe-deposit companies—Release of property.

Safe-deposit companies having property in this country of nonresident decedent may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Table used in determining value of life estate.

In determining present net worth of a vested estate of decedent, which is subject to the usufruct or life estate of another, the value of the life interest is deductible; in arriving at such value, specified table should be used. (T. D. 2626; Dec. 6, 1917.)

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Warehousemen—Release of property.

Warehousemen having property in this country of nonresident decedent may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

ETHYL ALCOHOL.

See "Alcohol."

EUCAINE.

See "Narcotics."

EXCESS PROFITS TAX.

Act published.

War excess profits tax provisions of act of October 3, 1917, published. (T. D. 2550; Oct. 20, 1917.)

Advance payments.

Instructions with reference to time for making advance payments in installments or in whole of income and excess profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

Assessment and collection.

All excess profits taxes to which any taxpayer is subject shall be assessed and collected at same time and in same manner as provided with respect to income taxes, in Regulations No. 33, revised, in so far as same are applicable. (T. D. 2694; art. 79.)

Certificates of indebtedness—Acceptance.

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand;" schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from March 15, to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located and must be forwarded by registered mail;

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Certificates of indebtedness—Acceptance—Continued.

until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

Unmatured coupons attached to certificates of indebtedness of Tax Series of 1919, dated August 20, 1913, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid;" coupons maturing on or before date tax is due must be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

Computation.

Partnership whose fiscal year ended with last day of any month in 1917 other than December, may, not later than 30 days before March 1, 1918, give to collector of district in which its principal place of business is located, notice in writing of date thus fixed as closing of fiscal year; unless such notice is given, income tax return for purposes of excess profits tax shall be filed upon basis of calendar year 1917. (T. D. 2632; Jan. 21, 1918.)

Where partnership keeps its books upon basis of fiscal year ending on last day of any month other than December 31, and it is impracticable to make satisfactory return upon basis of calendar year, collector may accept return upon basis of its fiscal year, even though notice was not given not later than 30 days before March 1, 1918, as prescribed by T. D. 2632; if partnership has already filed return upon basis of calendar year, collector may accept amended return upon basis of fiscal year. (T. D. 2677; Mar. 23, 1918.)

All trades and businesses in which corporation or partnership is engaged will be treated as single trade or business (as provided in section 201 of the act of October 3, 1917, and all its income from whatever source derived shall be deemed to be received from such trade or business, and if in such trade or business, considered as a unit, such corporation or partnership employs more than a nominal capital (whether invested, borrowed, or of any other character) it will not be entitled to be assessed under the provisions of section 209. (T. D. 3017; May 3, 1920. Amending art. 14, T. D. 2694.)

Inasmuch as all the trades or businesses in which a corporation or partnership is engaged are treated as one, a corporation or a partnership shall be allowed either the deduction provided for in section 203 or the deduction provided for in section 209 (depending on the character of its trade or business), but not both. (Id.)

In the case of an individual each trade or business in which he is engaged, the net income from which is subject to the excess profits tax, shall be classified as provided in article 14, Regulations No. 41. Each trade or business having no invested capital or not more than nominal capital, etc., shall be taxed as provided in article 15, and each trade or business having more than a nominal capital shall be taxed as provided in article 16. If an individual is engaged in two or more trades or businesses, in one of which he employs more than a nominal capital (whether invested, borrowed, or of any other character), he will be assessed under section 209, act of October 3, 1917, only as to those trades or businesses in which he employs no invested capital or not more than a nominal capital; and as to all others, he will be assessed under section 201. (Id.)

If an individual has more than one business with invested capital, they will all be regarded as one, and (under sec. 203, act of Oct. 3, 1917) only one deduction will be allowed; if he has more than one business with not more than a nominal capital, they will be regarded as one, and (under the provisions of sec. 209) only one deduction will be allowed. If he has both kinds of businesses he will be regarded as having two businesses and there will be two deductions, but not more than two. (Id. See arts. 35 and 36, Regulations No. 41.)

Where taxpayer who is engaged in a trade or business, net income from which is subject to taxation at rate of 8 per cent imposed by section 209 of the act of October 3, 1917, makes return for period of less than 12 months, the deduction of $3,000 or $6,000 allowed under that section will be reduced to an amount which bears the same ratio to such full deduction as the number of months in the period bears to 12 months; this ruling applies only in case of taxpayer who is entitled to make return

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Computation—Continued.

for period of less than a full year, and is not to be construed as authorizing a corporation or partnership which has already established fiscal year ending in 1917, but part of which falls within 1916, to compute its tax in any other manner than as prescribed in article 19 of Regulations 41. (T. D. 2689; Apr. 1, 1918.)

Where taxpayer who is engaged in trade or business, net income from which is subject to taxation at rates imposed by section 201 of the act of October 3, 1917, makes return for period of less than 12 months, the invested capital used in applying the rates of tax will be an amount which bears the same ratio to such full average invested capital as the number of months in the period for which the return is made bears to 12 months; this ruling applies only in case of taxpayer who (because of having just established a fiscal year, or of having just organized or engaged in business, or for other like reasons) is entitled to make return for period of less than full year, and is not to be construed as authorizing a corporation or partnership which has already established a fiscal year ending in 1917, but part of which falls within 1916, to compute its tax in any other manner than as prescribed in article 19 of Regulations 41. (T. D. 2689; Apr 1, 1918.)

Where deduction as provided in articles 21, 23, and 24 is greater than 15 per cent of invested capital and therefore can not be fully allowed under the first rate or bracket of article 16, then any remaining portion of such deduction will be allowed under the second bracket and continued if necessary into succeeding bracket or brackets until entire deduction is allowed. (T. D. 2694; art. 17.)

Where trade or business was formally organized or reorganized on or after January 2, 1913, but is substantially continuation of trade or business carried on prior to such date, such corporation or partnership is deemed to have been in existence, or individual is deemed to have been engaged in trade or business, prior to such date, and for purpose of computing deduction net income and invested capital of predecessor is deemed to have been net income and invested capital of present owner for prewar period. (T. D. 2694; art. 22.)

Method of determining deduction when income for prewar period can not be satisfactorily determined, or when net income was low during prewar period, or when there was no net income during such period stated. (T. D. 2694; art. 23.)

Deduction used in computing rates of tax under article 16 is, except in cases coming within conditions specified in articles 23 and 24, in case of domestic corporation the sum of (1) an amount equal to same percentage of invested capital for taxable year which average amount of annual net income of trade or business during prewar period was of the invested capital for such period (except that 7 per cent shall be used if such percentage was less than 7 per cent, and 9 per cent shall be used if such percentage was more than 9 per cent, and 8 per cent shall be used if corporation was not in existence during whole of at least one calendar year during prewar period), and (2) $3,000. (T. D. 2694; art. 21.)

Deduction used in computing rates of tax under article 16, except in cases coming within conditions specified in articles 23 and 24 is in case of domestic partnership or of citizen or resident of the United States the sum of (1) an amount equal to same percentage of invested capital for taxable year which average amount of annual net income of trade or business during prewar period was of invested capital for prewar period (except that 7 per cent shall be used if such percentage was less than 7 per cent, and 9 per cent shall be used if such percentage was more than 9 per cent, and 8 per cent shall be used if partnership was not in existence or individual was not engaged in trade or business during whole of at least one calendar year during prewar period), and (2) $6,000. (T. D. 2694; art. 21.)

Deduction used in computing rates of tax under article 16, except in cases coming within conditions specified in articles 23 and 24 is in case of foreign corporation or partnership or of nonresident alien individual, an amount equal to same percentage of invested capital for taxable year which average amount of annual net income of trade or business during prewar period was of invested capital for such period (except that 7 per cent shall be used if such percentage was less than 7 per cent and 9 per cent shall be used if such percentage was more than 9 per cent, and 8 per cent shall be used if corporation or partnership was not in existence or individual was not engaged in trade or business during whole of at least one calendar year during prewar period). (T. D. 2694; art. 21.)

Amount of deduction in cases where Secretary of the Treasury is unable satisfactorily to determine the invested capital stated. (T. D. 2694; art. 24.)

Where corporation or partnership prior to March 1, 1918, made return for fiscal year, part of which fell within calendar year 1916, tax for first taxable year is that proportion of tax computed on net income for such fiscal year which number of

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Computation—Continued.

months from January 1, 1917, to end of such fiscal year bears to entire number of months in such fiscal year. (T. D. 2694; art. 19.)

Where corporation or partnership at any time, either because it has just designated fiscal year as provided in sections 8 or 13 of the act of September 8, 1916, or for any other reason, makes return for period of less than 12 months, deduction will be the amount which bears same ratio to deduction allowable for full year as number of months in such period bears to 12 months. (T. D. 2694; art. 20.)

If excessive payments by corporations represent appropriation of assets by officers who control it and fix their compensation in violation of rights of corporation, amount of excess should be treated as compensation of individuals subject to normal and excess-profits taxes; or if such payments constitute in part payment for property amount of excess should be treated by corporation as capital expenditure and by recipient as part of purchase price. (T. D. 2696; Apr. 10, 1918.)

Consolidated returns of affiliated corporations—"Affiliated" defined.

Two or more corporations are not "affiliated" merely because all or substantially all of the stock therein is owned by the same corporation, individual, or partnership; they must also be engaged in the same or a closely related business. (T. D. 2662; Mar. 6, 1918.)

—— "All or substantially all of the stock" defined.

The words "all or substantially all of the stock" as used in the definition of an affiliated corporation in Regulations No. 41, article 77, interpreted as meaning an ownership of 95 per cent or more of such stock by the same taxpayer during the taxable year. (T. D. 2662; Mar. 6, 1918.)

—— Contents of return.

Owner shall include specific statement of number or proportion of shares in affiliated corporations held by parent corporation during taxable year and a schedule showing proportionate amount of total tax which it is agreed among them is to be assessed upon each affiliated corporation; affiliated corporation to file return showing that corporation is affiliated with parent corporation, that its return is included in consolidated return of such parent corporation, and district in which consolidated return is filed. (T. D. 2662; Mar. 6, 1918.)

Corporations must describe in returns all intercorporate relationships with other corporations with which affiliated and must furnish such information in relation thereto as will enable Commissioner of Internal Revenue to compute amount of tax properly due from each corporation on basis of equitable and lawful accounting; circumstances under which two or more corporations will be deemed to be affiliated stated. (T. D. 2694; art. 77.)

—— Date as of which valuation made.

When all, or susbtantially all, of stock of subsidiary corporation was acquired for cash, cash so paid shall be basis to be used in determining value of property acquired; where stock of subsidiary company was acquired with stock of parent company, amount to be included in consolidated invested capital in respect of company acquired shall be computed in same manner as if net tangible assets and intangible assets had been acquired instead of the stock; if in accordance with such acquisition a paid-in surplus is claimed, such claim shall be subject to provisions of articles 55 and 63 of Regulations 41. (T. D. 2901; July 29, 1919.)

——Invested capital, etc., determining amount of.

Consolidated return will be required in case of affiliated corporations among which there exist contracts or trade or financial practices which arbitrarily or beneficially influence or determine the amount of the invested capital or net income of one or more of the corporations so affiliated and where 95 per cent or more of the stock of the subsidiary affiliated corporations is owned by a parent or controlling corporation or by an individual or partnership. (T. D. 2662; Mar. 6, 1918.)

—— Place of filing returns.

Returns shall be filed by parent or principal corporation in office of collector of district in which it has its principal office; each of other affiliated corporations shall file return in office of collector of its respective district; contents of return stated. (T. D. 2662; Mar. 6, 1918.)

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Consolidated returns of affiliated corporations—Continued.

—— **Public service corporations.**

Railroads, gas, electric, water, or other public service corporations when operated independently and not physically connected or merged—particularly when situated in different jurisdictions and subject to regulation by public service commissions—will not be required or permitted without special permission obtained in advance, to make a consolidated return; when public utility is owned by industrial corporation and is operated as a plant facility, or as an integral part of a group organization of affiliated corporations and such corporations are required to file consolidated return, return of such public utility shall be included therein. (T. D. 2662; Mar. 6, 1918.)

—— **Requirement.**

Whenever necessary to more equitably determine the invested capital or taxable income, Commissioner of Internal Revenue may require affiliated corporations to furnish consolidated return of net income and invested capital; such return may be made by any one or more of such corporations or by all acting jointly; in case of neglect or refusal to furnish return, Commissioner may cause examination of books of all such corporations to be made, and consolidated statement to be made from such examination; where returns are accepted, total tax will be computed in first instance as unit on basis of consolidated return and will be assessed upon respective affiliated corporations in such proportions as may be agreed among them; but if no such agreement is made tax will be assessed upon each corporation in accordance with net income and invested capital properly assignable to it. (T. D. 2694; art. 78.)

—— **Separate returns, when.**

If Commissioner of Internal Revenue, upon examination of any consolidated return, finds that tax can not, in his judgment, be properly assessed upon basis of such return, affiliated corporations covered by such consolidated return, shall, upon notice from the Commissioner, file separate returns. (T. D. 2662; Mar. 6, 1918.)

Definitions—"Business."

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business" include all sources of income, and unless otherwise indicated by the context the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual, the terms "trade," "business," and "trade or business" comprehend all his activities for gain, profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation, they shall be construed to be a trade or business, whether continuously carried on during taxable year or not; unless otherwise indicated by the context, terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 8.)

—— **"Corporations."**

The term "corporation" includes joint-stock companies or associations, no matter how created or organized, insurance companies, and limited partnerships, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 2.)

—— **"Dividends."**

The term "dividend" has the same meaning as in section 31 of the act of September 8, 1916, as amended by the act of October 3, 1917, to wit, any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its stockholders, whether in cash or in stock, which stock dividends shall be considered income, to the amount of earnings or profits so distributed; unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 9.)

—— **"Domestic."**

The term "domestic" means created under the law (statutory or other) of United States or any State thereof, Alaska, Hawaii, or the District of Columbia, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

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Definitions—Continued.

—— **"Foreign."**

The term "foreign" means created under the law (statutory or other) of any possession of the United States other than Alaska, Hawaii, or the District of Columbia, or of any foreign country or Government, and unless otherwise indicated by the context term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

—— **"Intangible property."**

The term "other intangible property," as used in section 207 of the act of October 3, 1917, means property of character similar to good will, trade-marks, and the other specific kinds of property enumerated in the same clause. (T. D. 2694; art. 47.)

—— **"Invested capital."**

The term "invested capital" means the invested capital of the present owner. (T. D. 2694; art. 42.)

The term "invested capital," when used with reference to a foreign corporation or partnership or a nonresident alien individual, means that proportion of the entire invested capital as defined and limited by Regulations No. 41 which the net income from sources within the United States is of the entire net income. (T. D. 2694; art. 48.)

The term "invested capital" as used in section 209 of the act of October 3, 1917, includes all working capital consisting of money or property employed in the business or for its benefit, and furnished or paid in by one or more of the partners. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

—— **"Limited partnership."**

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

—— **"Money or other property borrowed."**

The term "money or other property borrowed," as used in section 207 of the act of October 3, 1917, and Regulations No. 41, includes not only cash or other borrowed property which can be identified as such, but current liabilities and temporary indebtedness of all kinds, and any permanent indebtedness upon which taxpayer is entitled to an interest deduction in computing net income. (T. D. 2694; art. 44.)

—— **"Nominal capital."**

The term "nominal capital," as used in section 209 of the act of October 3, 1917, means in general a small or negligible capital whose use in a particular trade or business is incidental; certain businesses not construed as having nominal capital for purposes of excess profits tax, named. (T. D. 2694; art. 74.)

—— **"Prewar period."**

The term "prewar period" means the calendar years 1911, 1912, and 1913, or if a corporation or partnership was not in existence or an individual was not engaged in the trade or business during the whole of such three years, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 6.)

—— **"Tangible property."**

Stocks, bonds, bills, and accounts receivable, notes and other evidences of indebtedness, construed to be "tangible property" within meaning of section 207 of act of October 3, 1917. (T. D. 2610; Dec. 20, 1917.)

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Definitions—Continued.

—— **"Taxable year."**

The term "taxable year" means the 12 months ending December 31 of each year, except in case of corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning; first taxable year is year ending December 31, 1917, except that in case of corporation or partnership which has fixed its own fiscal year, first taxable year is fiscal year ending during calendar year 1917. (T. D. 2694; arts. 1, 5.)

—— **"Trade."**

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business" include all sources of income, and unless otherwise indicated by the context, the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual, the terms "trade," "business," and "trade or business" comprehend all his activities for gain, profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation they shall be construed to be a trade or business whether continuously carried on during taxable year or not; unless otherwise indicated by the context, terms will be deemed to be used only with this scope or meaning. (T. D 2694; arts. 1, 8.)

—— **"United States."**

The term "United States" (when used in a geographical sense) means only the States thereof, Alaska, Hawaii, and the District of Columbia, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 4.)

Estate tax—Deductions.

Where State statute or act of Congress, imposing tax on income, creates either a lien or a personal obligation, as of a date in the decedent's lifetime, the tax is deductible, and where lien or obligation is created as of a date subsequent to the decedent's death the tax is not deductible; the income and excess-profits taxes imposed by acts of September 8, 1916, and October 3, 1917, constitute personal obligation of the taxpayer, and are deductible in accordance with these rules; the unpaid taxes for years prior to that in which decedent died are deductible; for the year in which decedent died, the tax upon income up to the date of death is deductible. (T. D. 2771; Nov. 8, 1918.)

Exemptions.

Holders of Liberty bonds, Treasury certificates of indebtedness, and war savings certificates, authorized by act of September 24, 1917, are entitled to exemption from all income and war excess-profits taxes upon interest received on principal amount, not to exceed $5,000 face value of such obligations; immaterial whether 4 per cent Liberty bonds were issued to holder in exchange for Liberty bonds of first series, or Treasury certificates of indebtedness, or whether issued upon new subscription; exemption is upon income from $5,000, face value of obligations issued by authority of said act of September 24, 1917. (T. D. 2585; Nov. 8, 1917.)

Corporations exempt under section 11 of Title I of the act of September 8, 1916, from tax imposed by such title, partnerships carrying on or doing same kind of business or coming within same description, and individuals to extent that they carry on or do same kind of business or come within same description, are exempt from tax. (T. D. 2694; art. 13.)

In case of excessive payments by individuals or partnerships amounts allowed should ordinarily be treated as partnership shares and would thus be free from excess-profits tax to recipient. (T. D. 2696; Apr. 10, 1918.)

In case of excess payments by corporations, if such payments correspond to or bear a close relationship to stock holdings, amount of excess should be treated as dividends and would thus be exempted from normal tax and from excess-profits tax in hands of recipients. (T. D. 2696; Apr. 10, 1918.)

When income as such is taxable to beneficiaries, as in case, under present income-tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries, each beneficiary is regarded as owner of proportionate part of

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Exemptions—Continued.

bonds held in trust, and subscription by trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and entitles him to collateral exemption of interest on bonds of previous issues, whether owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust and the trust is entitled to exemption on account of such ownership; in such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the orignal subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to individual partners, as under present income-tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess-profits tax law, partnership is treated as owner of Liberty loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

Corporation, and not stockholders, is regarded as owner of Liberty loan bonds held by a corporation and entitled to exemption on account of such ownership; when bonds of Fourth Liberty Loan are subscribed for by corporation it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762; Oct. 18, 1918.)

Fiscal year.

See "Computation," *ante.*

Income taxes—Credits.

After net income shall have been ascertained, it shall be credited with amount of any excess-profits tax, assessed for same calendar or fiscal year upon taxpayer, and, in case of member of partnership, with his proportionate share of the excess-profits tax imposed upon the partnership. (T. D. 2690; art. 2.)

Where corporation returns as income interest received on bonds, interest upon which debtor corporation had agreed to pay without deduction of income taxes, and debtor corporation actually pays income tax assessable on such interest income, corporation receiving such interest may take credit against tax assessable on basis of net income returned, for amount of tax paid thereon by debtor corporation; when net income has been ascertained within rules set out in section 12 (a) of the act of September 8, 1916, as amended, it shall be credited with amount of excess-profits tax assessed or to be assessed for same year; such excess-profits tax allowance is a credit against the net income for purpose of taxes imposed by both the act of September 8, 1916, and act of October 3, 1917. (T. D. 2690; art. 199.)

Although excess-profits tax payment is not an allowable deduction in ascertaining net income, net income shown on any return will be credited with amount of excess-profits tax for which taxpayer will be liable for same year. (T. D. 2690; art. 8.)

Net income embraced in return shall be credited with amount of any excess-profits tax imposed and assessed for same calendar or fiscal year upon taxpayer, and in case of member of partnership with his proportionate share of such excess-profits tax; applicable to nonresident aliens. (T. D. 2690; arts. 9, 11.)

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Income taxes—Continued.

—— **Deductions.**

Where corporation has filed return, showing liability for income tax, computed under act of September 8, 1916, as originally passed, it must make amended return, and take credit for amount of excess-profits tax for which it is liable; if overpayment of income tax at 2 per cent rate is shown, amount of such overpayment may be credited against the war income tax of 4 per cent for which liable, to ascertain total amount of income tax, but in no case will credit for overpayment of income tax be taken against the excess-profits tax due. (T. D. 2663; Mar. 8, 1918.)

All taxes levied by general taxing authority, including tax imposed and paid under act of October 3, 1917, except war excess-profits, income taxes, and taxes assessed against local benefits, are allowable deductions. (T. D. 2690; art. 8.)

Inventories.

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918.)

Dealer in securities, for purposes of T. D. 2609, is a merchant of securities whether an individual, partnership, or corporation, with an established place of business, and whose principal business is the purchase of securities and their resale to customers; one who, as a merchant, buys securities and sells them to customers with a view to the gains and profits that may be derived therefrom. (T. D. 2649; Jan. 30, 1918.)

Invested capital—Average for year.

Invested capital for any prewar or taxable year (or where tax is computed upon basis of period less than a year, for such period) is average invested capital for year or period averaged monthly, according to these rules: (a) Add capital for each of several months during which no change occurs, and average capital for each month in which change occurs and divide total by number of months in year or period; (b) to ascertain capital for any month in which change occurs multiply capital as of first day of month by number of days it remains constant and capital after each change by number of days (including day on which change occurs) during which it remains constant, add products, and divide sum by number of days in month. (T. D. 2694; art. 43.)

—— **Computation.**

Appreciation of capital assets not realized by sale can not be included in the computation of invested capital. (T. D. 3051; July 27, 1920. Ct. Dec.)

Act of October 3, 1917, Title II, undertakes to define "invested capital," and in computing invested capital it is necessary to come within the definition contained in such act. (T. D. 3051; July 27, 1920. Ct. Dec.)

—— **Corporations and partnerships—Copyrights.**

Copyrights paid in for stock or shares must be valued at either actual cash value at the time of payment or the par value of the stock or shares issued therefor, whichever is lower. (T. D. 2694; art. 56.)

—— —— **Foreign corporations or partnerships.**

In case of domestic corporations or partnerships and of citizens or residents of United States holding stock in foreign corporation part of whose net income is subject to income tax, there shall be included in invested capital such proportion of value of stock in such foreign corporation as net income of foreign corporation from sources outside of United States is of its entire net income. (T. D. 2694; art. 46.)

The term "invested capital," when used with reference to foreign corporation or partnership, means that proportion of entire invested capital as defined and limited by Regulations No. 41 which net income from sources within the United States is of the entire net income. (T. D. 2694; art. 48.)

—— —— **Insurance companies.**

Invested capital of mutual insurance company will be deemed to consist of any surplus or contingent reserves maintained for general use of business, plus any legal reserves, net additions to which are included in net income subject to tax—subject to restrictive provisions of article 44 of Regulations No. 41, requiring exclusion of tax-free assets other than United States obligations; invested capital of stock insur-

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Invested capital—Continued.

—— **Corporations and partnerships**—Continued.

—— —— **Insurance companies**—Continued.

ance company will be deemed to consist of its capital stock, paid-in or earned surplus, and undivided profits (subject to same provisions of article 44) computed in accordance with provisions of article 53. (T. D. 2694; art. 65.)

—— —— **Intangible property.**

If good will, trade-marks, trade brands, franchises of a corporation or partnership, or other intangible property has been purchased with stock or shares issued prior to March 3, 1917, amount that may be included in invested capital must nor exceed 20 per cent of par value of total stock or shares outstanding on that date, not actual value of asset at date acquired, nor par value of stock issued in payment for the asset. (T. D. 2694; art. 57.)

Twenty per cent limitation upon intangible property purchased prior to March 3, 1917, for or with stock or shares of corporation or partnership, applies not to each item or class of intangible property sepatetely, but to aggregate amount of all such property so purchased, which may be included in invested capital only up to amount not exceeding 20 per cent of total stock or shares on March 3, 1917, even though aggregate amount of such intangible property be greater in value than such 20 per cent of par value of total stock or shares; intangible property purchased prior to March 3, 1917, with stock having no par value may be included in invested capital at value not exceeding actual cash value at time of purchase and in amount not exceeding 20 per cent of total shares of stock outstanding on March 3, 1917, measured by their value as at date or dates of issue. (T. D. 2694; art. 58.)

Good will and other similar intangible assets purchased with cash or tangible property must be taken at value not in excess of the cash or actual cash value of the tangible property specifically paid therefor. (T. D. 2694; art. 60.)

—— —— **Mixed aggregate of tangible and intangible property.**

Rules governing cases where stock or shares (or stock or shares and bonds or other obligations) have, prior to March 3, 1917, been issued for a mixed aggregate of tangible property, patents and copyrights, and good will or other intangible property, stated. (T. D. 2694; art. 59.)

—— —— **Objection to method of determining.**

A partnership which had invested capital more than nominal in amount can not complain of regulations promulgated or of the method employed in determining the amount of such capital, where the arbitrary or supposititious invested capital fixed upon was larger in amount than the invested capital actually possessed and employed, and the taxes imposed were correspondingly diminished. (T. D. 3080; Oct. 19, 1920, Ct. Dec.)

—— —— **Patents.**

Patents paid in for stock or shares must be valued at either actual cash value at the time of payment or the par value of the stock or shares issued therefor, whichever is lower. (T. D. 2694; art. 56.)

—— —— **Rule for computing.**

Every corporation or partnership paying taxes at graduated rates prescribed in section 201 of the act of October 3, 1917, shall add together its paid-in capital and its paid-in or earned surplus and undivided profits as shown by its books at beginning of taxible year, and total thus obtained shall be adjusted for any asset or item which it covers that is not carried on the books at the valuation prescribed by law or by Regulations No. 41; when necessary, certain stated adjustments shall be made, and adjusted total of capital and surplus account will represent invested capital at beginning of taxable year, except where admissible assets are less than amount of such adjusted total, when invested capital must be further reduced to amount equal to sum of admissible assets; where change has been made during taxable year in amount of invested capital, monthly average may be taken, but in no case may invested capital include any surplus or undivided profits earned during taxable year; with respect to taxable year 1917, balance sheet as at first day and also sheet as at close of taxable year must be submitted, and thereafter balance sheet as at close of each year must be submitted. (T. D. 2694; art. 53.)

Property of member of partnership deposited with bank and pledged as collateral security for the repayment of a loan by or for the benefit of the partnership in pursuance of the articles of partnership is part of the invested capital of such partnership. (T. D. 3080; Oct. 19, 1920, Ct. Dec.)

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Invested capital—Continued.

—— **Corporations and partnerships**—Continued.

—— —— **Stock returned.**

When stock of corporation issued or exchanged for property (tangible or intangible) is returned to corporation as gift or for consideration substantially less than its par value, stock so returned shall not be treated as part of stock issued or exchanged for such property; proceeds derived in cash or its equivalent from resale of stock so returned shall, however, be included in invested capital if retained and employed in business. (T. D. 2694; art. 54.)

—— —— **Surplus and undivided profits.**

Profits earned during any taxable year or prewar year shall not be included in computation of invested capital for such year, even though set up as "surplus" upon books or distributed in form of stock dividends. (T. D. 2694; art. 61.)

Under clause (3) of subdivision (a) of section 207 of the act of October 3, 1917, authorizing inclusion in invested capital of earned surplus and undivided profits used or employed in business, all surplus and undivided profits (inclusive of undivided profits earned during year) from whatever source derived, will, unless invested in stocks, bonds (other than obligations of the United States), or other assets, income from which is not subject to excess profits tax, be deemed to be used or employed in business and may be included in invested capital. (T. D. 2694; art. 62.)

Where through failure to provide for depletion, depreciation, obsolescence, or other expenses or losses, or where for any cause books of account of taxpayer do not show true paid-in or earned surplus and undivided profits, in computation of invested capital such adjustments shall be made as are necessary to arrive at correct amount; where taxpayer claims additions to capital account, books of account will be presumed to show true facts, and burden of proof will rest upon taxpayer, and such additions will be accepted only to extent and under certain specifically stated conditions. (T. D. 2694; art. 64.)

For purpose of determining invested capital, under Title II of the act of October 3, 1917, income and excess profits taxes shall be deemed to have been paid out of the net income for the taxable year for which such taxes are levied; amounts payable on account of income and excess profits taxes for any year may be included in computing surplus and undivided profits for succeeding year only for proportionate part of year represented by period of time between close of taxable year and the date or dates upon which such taxes become due and payable. (T. D. 2791; Feb. 17, 1919.)

When all, or substantially all, of stock of subsidiary corporation was acquired for cash, cash so paid shall be basis to be used in determining value of property acquired; where stock of subsidiary company was acquired with stock of parent company, amount to be included in consolidated invested capital in respect of company acquired shall be computed in same manner as if net tangible assets and intangible assets had been acquired instead of the stock; if in accordance with such acquisition a paid-in surplus is claimed, such claim shall be subject to provisions of articles 55 and 63 of Regulations 41. (T. D. 2901; July 29, 1919.)

—— —— **Tangible property.**

Tangible property paid in for stock or shares prior to January 1, 1914, must be valued at either actual cash value on January 1, 1914, or par value of stock or shares specifically issued for such property, whichever is lower; allowance may be made for appreciation where original stock or shares were specifically issued in exchange for such tangible property; tangible property paid in for stock or shares on or after January 1, 1914, will be taken at actual cash value of such property at time of payment irrespective of par value of stock or shares. (T. D. 2694; art. 55.)

Where tangible property has been conveyed to corporation or partnership by gift or at a value accurately ascertainable or definitely known, as at date of conveyance, clearly and substantially in excess of cash or other value of stock or shares paid therefor, amount of excess shall be deemed to be paid-in surplus; adopted value shall not cover mineral deposits or other property discovered or developed after conveyance, but shall be confined to value accurately ascertainable or definitely known at that time; evidence tending to support claim for paid-in surplus must be as of date or conveyance and may consist of appraisal of property by disinterested authorities, sale value in excess of real estate, and market price in excess of par value of stock or shares. (T. D. 2694; art. 63.)

—— **Definition.**

The term "invested capital" means the invested capital of the present owner. (T. D. 2694; art. 42.)

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Invested capital—Continued.

—— **Definition**—Continued.

Act of October 3, 1917, Title II, undertakes to define "invested capital," and in computing invested capital it is necessary to come within the definition contained in such act. (T. D. 3051; July 27, 1920. Ct. Dec.)

The term "invested capital," as used in section 209 of the act of October 3, 1917, includes all working capital consisting of money or property employed in the business or for its benefit, and furnished or paid in by one or more of the partners. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

—— **Depletion, etc., allowance.**

Basis of computation of invested capital is found in amount of cash and other property paid in, which computation must take properly into account surplus and undivided profits; in computation of such surplus and undivided profits recognition must first be given expenses incurred and losses sustained from original organization of business concern down to taxable year, including reasonable allowance for depletion, depreciation, or obsolescence of property originally acquired; if value appreciation of kind not subject to income tax (other than that allowed under article 55 of Regulations No. 41) has been taken up in accounts, deduction must be made in respect of such appreciation; in computation of invested capital for any year full effect must be given to any liquidation of original capital. (T. D. 2694; art. 42.)

—— **Individuals—Computation.**

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade-brands, franchises, and other tangible property. (T. D. 2694; art. 66.)

Invested capital of individual keeping books of account will be found in his capital account after making therein adjustments or corrections required, provided that assets other than those not allowed to be included equal or exceed such capital account; otherwise invested capital shall be amount of such assets; individual not keeping books of account must prepare statement showing assets valued in accordance with Regulations No. 41 and all liabilities and excess of assets over liabilities at beginning of year and gain at end of year will constitute invested capital on those dates, provided assets other than those not allowed to be included equal or exceed amount of such excess; amount of difference between capital as at beginning of year and at end of year will be deemed to have arisen ratably throughout the year, and capital at beginning of year will be increased or decreased by such amount averaged monthly over year; invested capital of one engaged in more than one trade or business having invested capital will, for purpose of computing deduction and applying rates of taxation, be determined by taking total invested capital of all such trades or businesses. (T. D. 2694; art. 70.)

—— —— **Intangible property.**

Patents and copyrights, and good will, trade-marks, trade-brands, franchises, and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

—— —— **Nonresident aliens.**

The term "invested capital," when used with reference to a nonresident alien individual, means that proportion of entire invested capital as defined and limited by Regulations No. 41, which net income from sources within the United States is of the entire net income. (T. D. 2694; art. 48.)

—— —— **Profits earned.**

Restriction in respect of undivided profits earned during taxable year imposed upon corporations and partnerships does not apply to individuals, and, unless otherwise shown, profits remaining in trade or business will be deemed to have arisen ratably throughout the year, and capital at beginning of year may be increased by total amount of such profits remaining in trade or business, averaged monthly over the year. (T. D. 2694; art. 69.)

—— —— **Tangible property.**

Rules for valuation of tangible property, subject to requirements of article 42 of Regulations No. 41 as to allowance for depletion, depreciation, and obsolescence, stated; presumed that tangible assets were acquired with cash either paid in directly or derived from trade or business, but taxpayer entitled to show that such assets were paid in as tangible property. (T. D. 2694; art. 67.)

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Invested capital—Continued.

—— **Intangible property.**

The term "other intangible property," as used in section 207 of the act of October 3, 1917, construed to mean property of character similar to good will, trade-marks, and the other specific kinds of property enumerated in same clause; stocks, bonds, bills, and accounts receivable, notes and other evidences of indebtedness, and leaseholds, when paid in for stock or shares in corporation or partnership, will be regarded as tangible property so paid in, but when corporation pays for intangible property by the issuance of its own stock or bonds, this will not be regarded as being a payment bona fide made in cash or tangible property within meaning of section 207. (T. D. 2694; art. 47.)

—— **Money or other property borrowed.**

Term "money or other property borrowed," as used in section 207 of act of October 3, 1917, and Regulations No. 41, includes not only cash or other borrowed property which can be identified as such, but current liabilities and temporary indebtedness of all kinds, and any permanent indebtedness upon which taxpayer is entitled to interest deduction in computing net income; corporation which under income-tax law may deduct only part of entire interest paid upon indebtedness, may include in invested capital such proportion of permanent indebtedness as amount of interest upon such indebtedness which corporation is not allowed to deduct is of total amount of interest paid upon such indebtedness during taxable year. (T. D. 2694; art. 44.)

—— **Prewar period.**

Invested capital for prewar period shall, in general, be determined in same manner as for taxable year, except that valuation as of January 1, 1914, shall not apply to tangible property paid in for stock or shares. (T. D. 2694; art.1.)

—— **Reorganization of trade or business.**

Trade or business which has been formally organized or reorganized on or after January 2, 1913, but which is substantially a continuation of trade or business carried on prior to that date, shall be deemed to have been in existence prior to that date, and invested capital of predecessor prior to that date shall be deemed to have been its invested capital; this relates to prewar period and does not apply to invested capital for taxable year. (T. D. 2694; art. 49.)

Where trade or business is reorganized, etc., after March 3, 1917, if interest or control of 50 per cent or more remains in control of same persons, etc., or any of them, then in ascertaining invested capital no asset transferred or received from prior trade or business shall be allowed greater value than would have been allowed in computing invested capital of such prior trade or business if such asset had not been so transferred or received, unless such asset was paid for specifically as such, in cash or tangible property, and then not to exceed actual cash or actual cash value of tangible property paid therefor at time of such payment. (T. D. 2694; art. 50.)

—— **Scope of section 210, Act October 3, 1917.**

Section 210 of the act of October 3, 1917, provides for exceptional cases in which invested capital can not be satisfactorily determined; in such cases taxpayer may submit to Commissioner of Internal Revenue affidavits in support of claim for assessment under provisions of the section; of what such exceptional cases may consist stated. (T. D. 2694; art. 52.)

—— **Tangible property.**

Stocks, bonds, bills and accounts receivable, notes and other evidences of indebtedness, and leaseholds, when paid in for stock or shares in corporation or partnership, will be regarded as tangible property so paid in, but when corporation pays for intangible property by the issuance of its own stock or bonds, this will not be regarded as being a payment bona fide made in cash or tangible property within meaning of section 207. (T. D. 2694; art. 47.)

—— **Tax-free securities.**

Whenever income consists partly of gains or profits subject to excess profits tax arising from trading in stocks, bonds, etc., dividends or interest on which are not subject to such tax, and partly of such dividends or interest, then, subject to limitations as to borrowed money, there shall be included in invested capital an amount which bears same ratio to total amount invested in such stock or bonds as amount of such gains or profits bears to total amount of such income. (T. D. 2694; art. 45.)

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Invested capital—Continued.

—— **Trade or business.**

Gains or profits from transactions entered into for profit, but which are isolated, incidental, or so infrequent as not to constitute an occupation, and income from property arising merely from its ownership, including interest, rent, and similar income from investments, except in cases in which management of investments really constitutes a trade or business, are not subject to excess profits tax, and capital from which such gains or income is derived shall not be included in invested capital. (T. D. 2694; art. 8.)

Net income—Classification.

Net income subject to tax is divided into two classes: (*a*) Net income derived from trade or business having no invested capital or not more than a nominal capital including in case of an individual, salaries, wages, fees, or other compensations, and (*b*) net income derived from trade or business having invested capital. (T. D. 2694; art. 14.) See next paragraph.

Trades or businesses which are subject to the tax divided into two classes, as follows: (*a*) Trades or businesses having no invested capital or not more than a nominal capital, including, in the case of individual occupations in which they receive salaries, wages, fees, or other compensations; and (*b*) trades or businesses having more than a nominal capital. (T. D. 3017; May 3, 1920. T. D. 2694 amended.)

—— **Corporations—Foreign.**

The net income of a foreign corporation or partnership is the net income from sources within the United States. (T. D. 2694; art. 26.)

In case of income derived by corporation or partnership from dividends upon stock of foreign corporation, part of whose net income is subject to income tax, there shall be deducted only that proportion of dividends received upon such stock which net income of such foreign corporation from sources within United States is of entire net income; where dividends upon stock of foreign corporation are received by individual as part of income from trade or business, there shall be included in net income that proportion of dividends received which net income of corporation from sources outside the United States is of its entire net income. (T. D. 2694; art. 27.)

—— —— **Prewar period.**

Net income of corporation for calendar year 1911 is computed by adding (1) amount of net income shown in item 9 of return made under section 38 of the act of August 5, 1909, for calendar year 1911, and (2) amount of taxes paid to United States within calendar year 1911 under section 38 of such act. (T. D. 2694; art. 29.)

Net income of corporation for calendar year 1912 is computed by adding (1) amount of net income shown in item 9 of return made under section 38 of the act of August 5, 1909, for calendar year 1912, and (2) amount of taxes paid to United States within calendar year 1912 under section 38 of such act. (T. D. 2694; art. 29.)

Net income of corporation for calendar year 1913 is computed by adding (1) amount of entire net income shown in item 8 of return made under Section II of the act of October 3, 1913, for calendar year 1913, and (2) amount of taxes paid within calendar year 1913 under section 38 of the act of August 5, 1909, and Section II or IV of the act of October 3, 1913, and deducting from total the amounts received during calendar year 1913 as dividends upon stock or from net earnings of other corporations, etc., subject to income tax imposed by Section II of the act of October 3, 1913. (T. D. 2694; art. 29.)

—— —— **Salaries.**

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

—— —— **Taxable year.**

Net income of corporation for taxable year determined by adding (1) amount of net income returned for income year, as provided in Title I of the act of September 8, 1916, as amended, and (2) amount received as interest on obligations of United

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Net income—Continued.

—— **Corporations**—Continued.

—— —— **Taxable year**—Continued.

States, issued after September 24, 1917 (other than interest received on amount of such obligations aggregate principal of which does not exceed $5,000), and deducting from total the amounts received during year as dividends upon stock or from net earnings of other corporations, etc., subject to income tax imposed by Title I of such act of September 8, 1916, as amended, except as otherwise provided in article 27. (T. D. 2694; art. 28.) But see T. D. 2762; Oct. 18, 1918.

—— **Exemptions.**

Incomes exempt from taxation under section 4 of the act of September 8, 1916, as amended, incomes derived from business of life, health, and accident insurance combined in one policy issued on weekly premium payment plan and compensation or fees received by officers and employees under the United States, or any State, Territory, or the District of Columbia, for their services as such, are exempt from tax. (T. D. 2694; art. 25.)

—— **Individuals—Contributions for religious, etc., purposes.**

Contributions or gifts for religious, charitable, etc., purposes allowed as deduction for purposes of income tax under paragraph ninth of subdivision (*a*) of section 5 of the act of September 8, 1916, as amended, may, subject to limitations therein contained, be deducted in computing net income of trade or business only when shown to satisfaction of Commissioner of Internal Revenue that such contributions or gifts are made by trade or business and not by individual in his personal capacity. (T. D. 2694; art. 37.)

—— —— **Invested capital.**

Article 18 of Regulations No. 41 applies only to cases in which Secretary of the Treasury is unable satisfactorily to determine invested capital for the taxable year (including cases arising under article 52 of such regulations); if deduction is so determined only upon ground that Secretary is unable satisfactorily to determine amount of invested capital for prewar period, but invested capital for taxable year can be satisfactorily determined, the graduated rates prescribed by section 201 of the act of October 3, 1917, will be applied upon the basis of such actual invested capital for the taxable year and not upon basis of constructive capital; if neither income nor invested capital for prewar period can be satisfactorily determined by the Secretary, deduction will be computed under section 205 (article 23 of such regulations) if invested capital for taxable year can be satisfactorily determined, but if such capital can not be satisfactorily determined deduction will be computed as provided by section 210 (article 24 of such regulations). (T. D. 2683; Mar. 26, 1918.

Net income derived from trade or business having invested capital (constituting net income of class B as defined in article 14 of Regulations No. 41) determined for taxable year by adding total net income from such sources (or in case of nonresident alien individual total net income from such sources within United States) as reported for income-tax purposes for same year and deducing therefrom deduction, if any, for salary allowed by article 39, if such deduction has not already been made; amounts received upon stock or from net earnings of corporations, etc., subject to income tax, shall be excluded; amount received as interest on obligations of United States issued after September 24, 1917 (other than interest received on amount of such obligations aggregate principal of which does not exceed $5,000), and such proportion of dividends received upon stock of foreign corporations as is required to be included by article 27 of Regulations No. 41, shall be included in case of individual dealing in securities or otherwise using securities in trade or business. (T. D. 2694; art. 36.) See T. D. 2762; Oct. 18, 1918.

Net income derived from trade or business having invested capital (constituting net income of class B as defined in article 14 of Regulations No. 41), shall be determined for each of the calendar years 1911, 1912, and 1913, upon same basis and in same manner as is provided in article 36. (T. D. 2694; art. 38.)

—— —— **Nominal capital.**

Net income derived from trade or business having no invested capital or not more than nominal capital, including salaries, wages, fees, or other compensation (constituting net income of class A as defined in article 14 of Regulations 41) is determined for taxable year by adding total net income from all such sources (or in case of nonresident alien individual total net income from all such sources within United States) as reported for income-tax purposes for same year. (T. D. 2694; art. 35.)

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Net income—Continued.

—— **Individuals**—Continued.

—— —— **Nonresident aliens.**

Net income of nonresident alien individuals is the net income from sources within United States. (T. D. 2694; art. 26.)

—— —— **Partners.**

Partner in individual capacity is subject to tax, if any, at 8 per cent rate under article 15 of Regulations No. 41 with respect to any salary or compensation from partnership for personal services (including any amounts allowed to partnership as deduction on his account for period prior to March 1, 1918). (T. D. 2694; art. 32.)

Partner in individual capacity is not considered to be engaged in trade or business with respect to share in profits of partnership, and so is not subject to excess profits tax thereon; consequently, in computing net income he need not include his share of partnership profits, but must, in computing net income of class A under article 35 of Regulations No. 41, include any salary or compensation from partnership for personal services (including any amount allowed to partnership as deduction on his account for period prior to March 1, 1918, in accordance with article 32). (T. D. 2694; art. 41.)

—— —— **Salaries.**

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Individual carrying on trade or business having invested capital may in computing net income deduct reasonable amount designated by him as salary or compensation for personal service actually rendered in conduct of such trade or business, but in no case shall amount so designated be in excess of salaries or compensation customarily paid for similar service by corporations or partnerships engaged in similar trades or businesses; amount deducted in case of nonresident alien limited to that portion of salary or compensation which is for service rendered with respect to trade or business carried on in United States; amount so designated shall be included in computing net income of class A under article 35 of Regulations No. 41 and balance of income shall be included in computing net income of class B under article 36. (T. D. 2694; art. 39.)

If, in computing net income, individual deducts reasonable amount designated as salary or compensation for personal services rendered by himself, as allowed by article 39, he must also, in computing net income for prewar period, make corresponding deduction. (T. D. 2694; art. 40.)

—— **Interest on United States bonds, etc.**

Interest received on all United States bonds and certificates exempt from normal income tax need not be included in gross income in return made for purpose of the 2 per cent tax or the 4 per cent tax, but interest on bonds and certificates issued under the act of September 24, 1917, in excess of interest on $5,000 aggregate principal amount of such bonds and certificates must be included in net income upon which war excess-profits tax is computed. (T. D. 2690; art. 100.)

—— **Partnership—Foreign.**

The net income of a foreign corporation or partnership is the net income from sources within the United States. (T. D. 2694; art. 26.)

—— —— **Interest on loans by partners.**

Partnership may deduct amounts paid during year to individual partner as interest upon any bona fide loan, but no deduction for so-called interest upon capital will be allowed. (T. D. 2694; art. 33.)

Where partnership makes deduction of amounts paid to individual partner as interest on loan, it must also in computing net income for prewar period, make corresponding deduction for any such interest actually paid during that period. (T. D. 2694; art. 34.)

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Net income—Continued.

—— Partnership—Continued.

—— —— Prewar period.

Net income for each of calendar years 1911, 1912, and 1913, determined in same manner as net income for taxable year, except that dividends upon stock or from net earnings of corporations, etc., subject to tax imposed by section 38 of the act of August 5, 1909, or by Section II of the act of October 3, 1913, shall be deducted. (T. D. 2694; art. 31.)

—— —— Salaries.

Partnership may deduct as expense reasonable salaries or compensation paid partners for services actually rendered during taxable year, if payments are made in accordance with prior agreements and are properly recorded on partnership books; deduction will be allowed for services actually rendered in period prior to March 1, 1918, regardless of whether previous agreement has been made as to compensation; deduction in case of foreign partnership limited to portions of salaries or compensation paid for services rendered with respect to trade or business carried on in United States. (T. D. 2694; art. 32.)

Where partnership makes deduction for salaries paid to partners during taxable year, it must also, in computing net income for prewar period, make corresponding deduction. (T. D. 2694; art. 34.)

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

—— —— Taxable year.

Net income determined by adding amount of entire net income ascertained as provided with respect to individuals for income-tax purposes by Title I of the act of September 8, 1916, as amended, including amounts received during year as interest on obligations of United States issued after September 24, 1917 (other than interest on obligations aggregate principal of which does not exceed $5,000) and deducting therefrom (1) amounts received during taxable year as dividends upon stock or from net earnings of corporations, etc., subject to income tax imposed by said Title I, except as otherwise provided in article 27, and (2) deductions, if any, for salaries or interest allowed by articles 32 and 33, if such deductions have not already been made. (T. D. 2694; art. 30.) See T. D. 2762; Oct. 18, 1918.

Nominal capital—Agents and brokers.

Agents and brokers requiring and using no capital or merely a nominal capital in their business are taxable under article 15 of regulations No. 41, but commission houses regularly employing substantial amount of capital, whether to lend to principals or to carry goods on their own account, are not deemed to be agents or brokers and are taxable under provisions of article 16. (T. D. 2694; art. 73.)

Members of a partnership who are paid neither a salary nor commissions for their services, but who buy and sell lumber and undertake and assume all the risks and enjoy all the benefits of a merchandising business, employing a large amount of capital, are not brokers. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

—— Definition.

The term "nominal capital," as used in section 209 of the act of October 3, 1917, means in general a small or negligible capital whose use in a particular trade or business is incidental; certain businesses not construed as having nominal capital for purposes of excess profits tax, named. (T. D. 2694; art. 74.)

—— Professional or personal services.

Section 209 of the act of October 3, 1917, applies primarily to occupations, professions, trades, and businesses engaged principally in rendering personal service in which employment of capital is not necessary, and earnings of which are to be ascribed primarily to activities of owners; in determining whether trade or business is taxable under article 15 of Regulations No. 41, no weight will be given to fact that it is carried on by means of personal service unless principal owners are regularly engaged in active conduct of the trade or business. (T. D. 2694; art. 71.)

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Nominal capital—Continued.

—— **Professional or personal services**—Continued.

Business concerns which render professional or personal service and are of the class normally taxable under article 15 of Regulations No. 41, shall not be taken out of that class merely because of size of capital if employment of such capital is necessitated by delay and irregularity in receipt of fees, etc., or if such capital is wholly or mainly used as fund from which to advance salaries, wages, etc., or to provide office furniture, accommodations, and equipment, nor because of form of organization, whether corporation or partnership, nor in case of partnership, because of number of partners. (T. D. 2694; art. 72.)

In determining liability under section 209 of the act October 3, 1917, income derived from a single timber-land deal by a partnership, whose principal business is dealing in lumber, can not, by reason of section 201 of the act, be considered and treated separate and apart from other partnership income or profits. (T. D. 3089; Oct. 19, 1920. Ct. Dec.)

Payment by check—Collecting taxes for which bad checks tendered.

Taxpayers whose checks have been returned uncollected by depositary bank should be immediately notified to make checks good; if taxpayer fails to do so, collector should proceed to collect taxes by usual methods, as though no check had been given. (T. D. 2666; Mar. 8, 1918.)

—— **Collection at par.**

All checks in payment of excess-profits tax must be collectible at par (without any deduction); taxpayers who are not sure that their checks will be paid at par should be advised to write beneath the amount "without deduction for exchange," or "with exchange"; collector not required to examine all checks to see whether they are collectible at par; if bank on which check is drawn refuses to pay it at par, it will be returned through depositary bank and should be treated in same manner as a bad check. (T. D. 2666; Mar. 8, 1918.)

—— **Correcting assessment list in case of bad check.**

In cases where checks have been returned uncollected by depositary banks, if recapitulation of assessment list for the month has not yet been sent to the Commissioner, original entry of payment should be canceled, and at the same time there should be noted in the "Remarks" column "Check returned unpaid; transferred to p. —, l —," with the date, and the item should be reentered in the unpaid section of the list, with the notation "Transferred from p. —, l —." There should be submitted in support of the new entry a copy of the collector's letter to the taxpayer with regard to the nonpayment of the check; if monthly recapitulation has gone forward, note should be made in the "Remarks" column, opposite the original entry, "Checks returned unpaid," with the date. (T. D. 2666; Mar. 8, 1918.)

—— **Out-of-town check.**

All out-of-town checks for which depositary bank is unwilling to issue immediate certificate of deposit to credit of Treasurer of United States, should be deposited separately in collection account, as provided in T. D. 2627; collection account will be charged and Treasurer's general account credited by issuance of certificate of deposit on Form 15. (T. D. 2666; Mar. 8, 1918.)

—— **Redemption of bad checks.**

Where check for which certificate of deposit to credit of Treasurer of the United States has been issued is returned to depositary bank unpaid, collector will be promptly notified and check held for few days, during which time collector should make effort to recover amount from taxpayer; if amount is recovered, collector should immediately turn it over to depositary in exchange for bad check, which should be returned to the drawer, but if amount is not recovered within reasonable time, depositary will return check with letter of transmittal and ask receipt from collector, which receipt should be given in duplicate, and depositary will charge amount to Treasurer's account in next daily transcript. (T. D. 2666; Mar. 8, 1918.)

Where check deposited in collection account is returned unpaid, and no certificate of deposit on Form 15 covering the amount thereof has been issued, amount of check will be charged by depositary to the collection account, after being held in a suspense account for a few days while an effort is made to recover amount from taxpayer. (T. D. 2666; Mar. 8, 1918.)

—— **Uncertified checks, acceptance of.**

If uncertified check, accepted by collectors, is not paid, person by whom it has been tendered remains liable for tax; such uncertified checks depositary bank is willing to accept should be included in certificates of deposit issued to collector;

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Payment by check—Continued.

—— **Uncertified checks, acceptance of**—Continued.

all other certificates will be carried by collector as "cash on hand"; date on which collector receives check considered date on which payment is made unless check is returned dishonored; such uncertified checks as bank is not willing to accept for immediate credit may be deposited for collection, and when collection is made proceeds should be immediately deposited with other collections for the day, collector charging his account "cash on hand," and crediting taxpayer from whom check was received. (T. D. 2627; Dec. 28, 1917.)

Rate of tax.

Tax upon trades or businesses having no invested capital, etc., is computed at rate of 8 per cent on net income thereof in excess of $3,000 in case of domestic corporation; upon net income thereof in excess of $6,000 in case of domestic partnership or of citizen or resident of United States; and upon net income thereof without deduction in case of foreign corporation or partnership or of nonresident alien individual. (T. D. 2694; art. 15. Amended by T. D. 3011; May 3, 1920.)

Tax upon trades or businesses having more than nominal capital is computed at following rates: 20 per cent of amount of net income in excess of deduction and not in excess of 15 per cent of invested capital for taxable year; 25 per cent in excess of 15 per cent and not in excess of 20 per cent of such capital; 35 per cent in excess of 20 per cent and not in excess of 25 per cent of such capital; 45 per cent in excess of 25 per cent and not in excess of 33 per cent of such capital; and 60 per cent in excess of 33 per cent of such capital. (T. D. 2694; art. 16. Amended by T. D. 3017; May 3, 1920.)

Where deduction is determined under article 24 of Regulations No. 41, invested capital for purpose of applying rates under article 16 shall be deemed to be an amount bearing same ratio to net income of trade or business for taxable year which average invested capital for corresponding calendar year of representative corporations, etc., engaged in like or similar trade or business bears to their average net income; in determining ratio, commissioner will include invested capital and net income of representative corporations and partnerships for fiscal years ending during such calendar year, and in case of corporation or partnership which has fixed its own fiscal year, ratio determined for calendar year ending during such fiscal year shall be used. (T. D. 2694. art. 18.)

Where, during the year 1917, a partnership had invested capital, more than nominal in amount, excess profits taxes upon its income could not be assessed at the lower rate by section 209 of the act of October 3, 1917. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Replacement fund.

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

Returns—Affiliated corporations.

See "Consolidated returns of affiliated corporations," *ante*.

—— **Amount of income.**

A domestic corporation or partnership or a citizen or resident of the United States entitled to make return for a period of less than full year, will be required to make such return, if net income for such period is at rate of $3,000 per year or more, in the case of a corporation, or of $6,000 per year or more in the case of a partnership or individual. (T. D. 2689; Apr. 1, 1918.)

—— **Corporations.**

A domestic corporation, entitled to make return for period less than full year, will be required to make such return if net income for such period is at rate of $3,000 per year or more. (T. D. 2689; Apr. 1, 1918.)

—— **Credits.**

Corporation which was dissolved in 1917, prior to passage of the act of October 3, 1917, will make return from Form 1031, revised, covering period in 1917 during which it was in business prior to its dissolution; if it shall have previously made

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Returns—Continued.

—— **Credits**—Continued.

return covering this period and shall have paid any excess-profits tax under act of March 3, 1917, it shall be entitled to credit for amount of tax so paid against any excess profits tax assessed against it under Title II of the act of October 3, 1917. (T. D. 2690; art. 61.)

—— **Inspection.**

When it becomes necessary for the department to furnish returns or copies thereof for use in legal proceedings. inspection of such returns or copies that necessarily results from such use is permitted. (T. D. 2961; Jan. 7, 1920.)

Return of partnership shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; and by any individual (or his duly constituted attorney in fact or legal representative) who was member of such partnership during any part of time covered by the return, upon satisfactory evidence of such fact being furnished. (T. D. 2961; Jan. 7, 1920.)

Except as to returns or copies thereof for use in legal proceedings, returns may be inspected only in the office of Commissioner of Internal Revenue, Washington, D. C. (T. D. 2961; Jan. 7, 1920.)

Written statement filed with Commissioner designed to be supplemental to and to become part of tax return shall be subject to same rules and regulations as to inspection as are tax returns themselves. (T. D. 2961; Jan. 7, 1920.)

A person who, under the regulations, is permitted to inspect a return may make and take copy thereof or memorandum of data contained therein. (T. D. 2961; Jan. 7, 1920.)

Except as otherwise provided, Commissioner may, in his discretion, upon written application setting forth fully reasons for request, grant permission for inspection of returns; application will be considered by Commissioner and decision reached by him whether applicant has met conditions imposed by regulations and whether reasons advanced for permission to inspect are sufficient to permit the inspection; such written application is not required of officers and employees of the Treasury Department whose official duties require inspection of a return, or of the Solicitor of Internal Revenue. (T. D. 2961; Jan. 7, 1920.)

Return of corporation shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; upon satisfactory evidence of identity and official position, by the president, vice president, secretary, or treasurer of such corporation, or, if none, its principal officer; and by a stockholder of such corporation under certain circumstances. (T. D. 2961; Jan. 7, 1920.)

Stockholder of record owning 1 per cent or more of the stock of the outstanding stock of a corporation may be permitted to inspect its return; permission will only be granted upon application in writing to Commissioner accompanied by affidavit showing certain facts; this privilege of inspection is personal and will be granted only to the stockholder. (T. D. 2961; Jan. 7, 1920.)

When head of executive department (other than Treasury Department) or any other United States Government establishment, desires inspection of return in connection with some matter officially before him, the inspection may, in discretion of Secretary of the Treasury, be permitted upon written application to him by head of such department or other Government establishment, such application to be signed by such head and to show why inspection is desired, name and address of taxpayer who made return, and name and official designation of one it is desired shall inspect the return; the reason submitted for permission to inspect the return shall be considered by the Secretary and decision reached by him whether reasons are sufficient to permit inspection. (T. D. 2961; Jan. 7, 1920.)

Original income return or copy thereof may be furnished by Commissioner to United States attorney for use as evidence before United States grand jury or in litigation in any court, where the United States is interested in the result, or for use in preparation for such litigation, or to attorney connected with Department of Justice designated by Attorney General to handle such matters if and when Attorney General states to Commissioner in writing that such attorney is so designated; return or copy thereof thus furnished must be limited in use to purpose for which furnished and is under no conditions to be made public, except where publicity necessarily results from such use; where original return is necessary, it shall be placed in evidence by the Commissioner for that purpose, and after being placed in evidence it shall be returned to files in office of Commissioner in Washington; original return will be furnished only in exceptional cases, and then only

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Returns—Continued.

—— **Inspection**—Continued.

when it is made to appear that ends of justice may otherwise be defeated; neither the original nor a copy desired for use in litigation where United States Government is not interested and where such use might result in making public the information contained therein will be furnished, except as otherwise provided in the next succeeding paragraph. (T. D. 2962; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

Proper officers of State imposing income tax are entitled as of right upon request of its governor to have access to income and profits tax returns of corporation, etc., or to abstract thereof, showing its name and income; proper officers in this connection are only those officers of the State charged with enforcement of the State income tax law and who are to use the information gained by the access only in connection with such enforcement; contents of request or application of governor, which must be in writing, signed by him under the seal of his State, and be addressed either to the Secretary of the Treasury or to the Commissioner of Internal Revenue, stated; access shall be given only in the office of the Commissioner, and the officers designated by the governor will not be permitted to name another person to examine the returns or abstracts for them, and the officers designated will be given access only to returns of those corporations, etc., organized and doing business in their State. (T. D. 2962; Jan. 7, 1920.)

—— **Married women.**

Married woman who is sole trader or is entitled to any taxable income to her sole and separate use may make separate return in same manner as any other individual. (T. D. 2694; art. 76.)

—— **Partnerships.**

A partnership, entitled to make return for period of less than full year, will be required to make such return if the net income for such period is at the rate of $6,000 per year or more. (T. D. 2689; Apr. 1, 1918.)

Partnerships having a net income of $6,000 or over required to render returns for purpose of excess profits tax. (T. D. 2690; art. 30.)

—— **Prewar period.**

Return of information with respect to invested capital and net income for prewar period will not be required if taxpayer accepts minimum percentage, viz, 7 per cent, as percentage to be used in computing deduction under article 21 of Regulations No. 41, or, if trade or business is taxable only at the 8 per cent rate under article 15; return of information as to all facts necessary to ascertain capital and income for taxable year will be required whenever called for by Commissioner of Internal Revenue. (T. D. 2694; art. 75.)

—— **Time.**

Corporations liable to income tax and excess-profits tax which may have made excess-profits tax returns for 1917 fiscal year pursuant to requirements of Title II of the act of March 3, 1917, must make supplemental returns for purpose of excess-profits tax; date for making returns extended to January 1, 1918. (T. D. 2561; Oct. 16, 1917.) Time extended to February 1, 1918. (T. D. 2615; Dec 13, 1917.) Time extended to March 1, 1918. (T. D. 2633; Jan. 22, 1918.) Time extended to April 1, 1918. (T. D. 2650; Feb. 9, 1918.)

Time for filing war excess-profits tax returns by nonresident alien individuals and corporations and American citizens residing or traveling abroad, including persons in military or naval establishments, stationed or on duty beyond limits of the States and Territories of Hawaii and Alaska, extended for such period as may

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Returns—Continued.

—— **Time**—Continued.

be necessary to and including 90 days after proclamation of President of United States announcing close of war with Germany; any such person filing return after April 1, 1918, but on or before October 1, 1918, embodying therein or attaching thereto written statement showing that he comes within classes designated by T. D. 2581, need not file supporting affidavit stating cause of delay. (T. D. 2672; Mar. 16, 1918.)

Taxability.

A partner in individual capacity not considered as engaged in trade or business with respect to his share in profits of partnership, and consequently not subject to excess-profits tax thereon. (T. D. 2612; Dec. 20, 1917.)

Every domestic corporation which has for the taxable year a net income of $3,000 or more, unless exempt under article 13 of the war excess-profits tax regulations, and every foreign corporation having for the taxable year a net income of $3,000 or more from sources within United States, unless so exempt, is required to make return pay tax, if any. (T. D. 2694; art. 10.)

Every domestic partnership which has for the taxable year a net income of $6,000 or more, unless exempt under article 13 of the war excess-profits tax regulations, and every foreign partnership which has for the taxable year a net income of $3,000 or more from sources within United States, unless so exempt, is required to make return and pay tax, if any. (T. D. 2694; art. 11.)

Every citizen or resident of the United States who has for taxable year aggregate net income in excess of $6,000 from trades, businesses, occupations, or professions, unless exempt under article 13 of the war excess-profits tax regulations, and every nonresident alien individual having for taxable year aggregate net income of $3,000 or more from trades, businesses, occupations, or professions carried on within United States, unless so exempt, is required to make return and to pay tax, if any. (T. D. 2694; art. 12.)

Corporation which was dissolved in 1917, prior to passage of act of October 3, 1917, is subject to tax under act of September 8, 1916, as amended, and also to war income tax and war excess-profits tax imposed by act of October 3, 1917. (T. D. 2690; art. 61.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to Commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733 of June 17, 1918. (T. D. 2755; Aug. 26, 1918.)

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Time of payment.

Because of impossibility of receiving notice and demand on Form 17, and making payment of taxes so that taxes can be received by collector within 10-day period following June 15, or within 10-day period following service of notice by reason of absence in foreign countries or on account of traveling abroad, or of absence in the military or other service of the country, and consequent delay in receiving mail, collector is requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that notice should be received in ordinary course of mails, and where it appears that full amount of tax was placed in mail within 10-day period, or in case notice is not delivered in due time, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

EXCHANGES.

Definition.

The word "exchange" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes each and every agent or agency, auction place, or other meeting place at which stocks are publicly bought, sold, bid for, offered or exchanged, and includes all incorporated and unincorporated associations, individuals, partnerships, and corporations, engaged in business of publicly selling, buying, or exchanging shares of stock or interests therein. (T. D. 2608; Nov. 30, 1917.)

The word "exchange" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes each and every agent or agency, auction place, or other meeting place, at which produce or other merchandise for future delivery is publicly bought, sold, bid for, offered or exchanged, or contracts for such future delivery are made, and includes all associations or individuals, partnerships, and corporations engaged in business of publicly selling, buying, or exchanging products of merchandise for future delivery. (T. D. 2608; Nov. 30, 1917.)

Documentary stamps.

Instructions as to use of regular documentary stamps pending preparation and distribution of special supply of overprinted stamps, provided to temporarily take place of distinctive colored stamps; requisition; issuance and exchange. (T. D. 2594; Nov. 28, 1917.)

Income taxes—Information at source.

Every person, corporation, partnership, or association, doing business as a broker, or any exchange or board of trade or other similar place of business, shall, upon request of the Commissioner of Internal Revenue, render correct return under oath, showing names of customers for whom such broker has transacted any business, with such details as to profits, losses, or other information, as may be called for by such return form as to each of such customers. (T. D. 2690; art. 33.)

Moving-picture films—Excise taxes.

Where manufacturer has, prior to May 9, 1917, made bona fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much of tax as is not so permitted to be added to contract price; this applies to contracts with dealer, exchange, or exhibitor for sale or lease of moving-picture films. (T. D. 2719; Art. XXXVII.)

A foreign government or a State, or any political subdivision thereof, buying or leasing an article for its own use is not a dealer, nor in case of moving-picture films is it an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

Sales for future delivery—Affixing and canceling stamps.

Stamps in value to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and canceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contract of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

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Sales for future delivery—Continued.

—— **Exempt transactions.**

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax imposed by section 807, Schedule A, subdivision 5, act of October 3, 1917, to apply; sale by member of exchange made by mail or wire not at an exchange is not subject to the tax. (T. D. 2795; Feb. 26, 1919.)

—— **Memoranda of sales**

Every sale or agreement not evidenced by memorandum or contract expressly requiring immediate or prompt delivery shall be deemed to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses, acting as agents, required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

Stock sales—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— **Exempt transactions.**

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall

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Stock sales—Continued.

—— **Exempt transactions**—Continued.

be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memorandum of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

EXCHANGE OF PROPERTY.

Excise taxes.

Where article is sold and thereafter exchanged for another article of a higher price, purchaser paying difference, vendor should pay tax on second sale, but may take credit for tax paid on returned article. (T. D. 2719; Art. VI.)

Income taxes.

Where farmer exchanges farm produce for merchandise, groceries, or mill products, the market value of the article or product received in exchange is to be returned as income. (T. D. 2665; Mar. 8, 1918.)

Where property was taken over in exchange for capital stock at par value in excess of fair market value of property, and such property later sold, necessary to ascertain as nearly as possible fair market value of property at time taken over as of March 1, 1913, if acquired before that date, and any excess over this ascertained fair market value will be held to be profit or income for year in which sale was made. (T. D. 2690; art. 111.)

Where corporation acquires from stockholders stock of another corporation, giving in exchange therefor its own stock, transaction is one by which corporation acquiring stock becomes sole stockholder of other corporation, and no income accrues to corporation, whose stock is thus acquired; neither will any income accrue to this corporation if later the holding corporation should cause assets of underlying company to be transferred to it for mere nominal consideration. (T. D. 2690; art. 124.)

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Stamp tax.

Where exchange of equal equities in real estate is made, tax stamp should be attached to each of the two deeds corresponding with the amount of each equity exchanged. (T. D. 2599; Dec. 3, 1917.)

EXCISE TAXES.

Agency sales.

Where agent of manufacturer makes a sale, it is to be treated as a sale of the manufacturer; if the manufacturer nominally sells an article to a sales agent or sales agency, but retains interest in profits from resale, taxable sale is that made by sales agent or agency, rather than nominal sale by manufacturer to agent or agency. (T. D. 2909; Aug. 11, 1919. Art. V of Regulations 44 amended.)

Where so-called sales agent or distributor is separate corporation, and sale to it is absolute, and at prices such as ordinarily obtain between persons dealing at arm's length, with no further payment or benefit accruing to manufacturer upon resale or otherwise except receipt of dividends on stockholdings, taxable sale is that made by manufacturer to such sales corporation, even though all or substantially all of the stock of such sales corporation is held by or for benefit of manufacturer. (Id.)

Where, however, there exist facts and circumstances which tend to establish relationship of principal and agent between manufacturer and sales corporation, taxable sale is that made by sales corporation. (Id.)

Mere ownership of majority or all of stock of sales corporation by manufacturer, without more, is not sufficient to establish relationship of principal and agent; same rule applies in case of selling corporation which owns substantially all of the stock of the manufacturing corporation. (Id.)

Automatic organs.

Automatic organs are not subject to the tax imposed by section 600 (b) of the act of October 3, 1917. (T. D. 2719; Art. XI.)

Automobiles—Accessories.

Speedometers and other attachments and accessories to automobiles and motor cycles are not taxable when sold separately, but they are when sold as part of an automobile or motor cycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

—— Assembled automobiles.

A usable, substantially completed automobile produced by assembling new parts of trucks and cars is subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. IX.)

—— Bodies.

Automobile bodies and other attachments and accessories to automobiles and motor cycles are not taxable when sold separately, but they are when sold as part of an automobile or motor cycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

Dealer who contracts to sell to customer a truck composed of a tax-paid chassis and a body to be added by body builder and who performs his contract is liable to tax as manufacturer of completed truck, though order to body builder purports to be that of customer through the dealer as his agent. (T. D. 2795; Feb. 26, 1919.)

—— Chassis.

A chassis is an automobile within the meaning of section 600 (a) of the act of October 3, 1917, and tax is payable by manufacturer thereof; where person other than manufacturer of chassis completes and sells automobile, tax must be paid on complete car less any tax already paid on the sale of the chassis. (T. D. 2719; Art. IX.)

—— Definition.

An automobile is a self-propelling vehicle, usually designed to run on a road, containing the means of propulsion within itself. (T. D. 2719; Art. VIII.)

An automobile truck or wagon is an automobile used primarily for transporting articles. (T. D. 2719; Art. VIII.)

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Automobiles—Continued.

—— **Demountable top added.**

If a dealer adds a demountable top to a tax-paid automobile or a driver's cab to a tax-paid truck, the sale of the improved vehicle is not subject to excise tax. (T. D. 2795; Feb. 26, 1919.)

—— **Fire engines.**

A self-propelled fire engine, at least if designed to carry only such persons as are necessary to drive it, is not spoken of and is not to be regarded as an automobile; if, however, it is specially designed to carry firemen not employed in or about the driving of the machine, it must be regarded as falling within the scope of section 600 (a) of the act of October 3, 1917; on other hand automobiles and automobile trucks equipped as hook and ladders, hose carts, etc., for the use of firemen, are taxable. (T. D. 2719; Art. IX.)

—— **Machine guns.**

Motor-driven machine guns are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— **Motor cycles.**

A motor cycle is a motor-driven bicycle. (T. D. 2719; Art. VIII.)

—— **Motor-driven machines.**

Motor-driven machines for pulling vehicles around factories and railway stations are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— **Motor unit.**

A motor unit, designed to be attached to a bicycle, so as to make it self-propelling like a motor cycle, is not taxable when sold separately, but when sold attached to a bicycle or to a children's buckboard, the complete vehicle is subject to the tax as a motor cycle or automobile. (T. D. 2719; Art. X.)

—— **Rate of tax.**

Tax imposed by section 600 (a) of the act of October 3, 1917, is 3 per cent of the price for which automobiles, automobile trucks, automobile wagons, and motor cycles are sold by the manufacturer. (T. D. 2719; Art. VIII.)

—— **Scope of tax.**

To come within the scope of the tax imposed by section 600 (a) of the act of October 3, 1917, a machine must be a vehicle or conveyance, that is, designed primarily for the transportation in or upon it of persons or property. (T. D. 2719; Art. IX.)

—— **Track use.**

An automobile adapted for use on a track is subject to the tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. VIII.)

—— **Tractors.**

Tractors for pulling agricultural implements are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

A tractor which has no body or provision for carrying the load, but is intended to haul trailers, is not taxable; if it has a body, no matter how small the carrying capacity or is designed for attachment, permanent or temporary, to a two-wheel trailer, in such a way as to carry part of the load, it is subject to tax as an automobile truck or wagon; if sold in combination with such trailer, the tax is on the total price; a four-wheel trailer complete in itself, having no connection with an automobile except the necessary coupling when drawn by it, is not subject to tax. (T. D. 2719; Art. X.)

Single sale by dealer of tractor and trailer bought by him together tax paid, and an extra trailer is not taxable unless combination of the three vehicles (otherwise than merely by coupling) forms a functioning vehicle. (T. D. 2795; Feb. 26, 1919.)

—— **Truck units.**

So-called truck units, intended to be attached to pleasure car chassis so as to convert them into trucks, are not taxable when sold separately; if sold in combination with a new chassis, however, tax is imposed upon price of complete truck. (T. D. 2719; Art. X.)

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Automobiles—Continued.

——Used or second-hand automobiles.

Used or second-hand automobiles are not subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. X.)

Basis of tax.

Tax imposed by section 600 of the act of October 3, 1917, is on sale of articles enumerated or in case of positive moving-picture films on their sale or lease by manufacturer. (T. D. 2719; Art. III.)

Tax imposed by section 600 of the act of October 3, 1917, is measured by price for which article is sold, except in case of moving-picture films; it is on actual sales price and not on list price, where that differs from the sales price; if price of article is increased to cover tax, tax is on such increased price. (T. D. 2719; Art. III.)

Commissions to agents and other expenses of sale are not deductible from the price. (T. D. 2719; Art. III.)

A discount for cash or other discount made subsequently to the sale can not be deducted in computing price for purpose of tax. (T. D. 2719; Art. III.)

If articles are sold at factory and freight charges to point of delivery are paid by buyer as specific item, or if they are sold delivered at sum less freight charges to be paid by purchaser, such charges need not be included as part of price of goods; but if manufacturer sells goods at delivered price and himself pays the freight, he may not make any deduction on account of inclusion in price of freight charges. (T. D. 2719; Art. III.)

Beverages.

See "Beverages."

Boats—Computation.

Tax on boats imposed by section 603 of act October 3, 1917, becomes due on 1st day of July in each year (except as to first payment due October 4, 1917), or on purchasing new boat if on any other date than July 1; in former case tax is reckoned for one year, and in latter case it is reckoned proportionately from first day of month in which liability to tax commenced to 1st day of July following. (T. D. 2753; Aug. 23, 1918.)

—— Date due.

Tax on boats imposed by section 603 of act October 3, 1917, becomes due on 1st day of July in each year (except as to first payment due October 4, 1917), or on purchasing new boat if on any other date than July 1. (T. D. 2753; Aug. 23, 1918.)

—— Definition—"For trade."

The words "for trade," as used in section 603 of act October 3, 1917, mean for business, particularly the business of buying and selling, or for commerce. (T. D. 2753; Aug. 23, 1918.)

—— Demonstrating purposes.

Boats used by marine engine manufacturer in transporting salesmen on their business trips, or in taking out prospective customers, purely for demonstrating purposes, are used exclusively for trade, and are not subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

—— Excursion boats.

Imposition of transportation tax for persons transported by boat is not conclusive that boat is used for trade; if boat is used to carry freight for hire, it is not subject to tax imposed by section 603 of act October 3, 1917, but if used to carry passengers, distinction is between its operation in general commerce, as from New York to Boston, and its operation for plainly pleasure purposes, as from New York to Coney Island; boats carrying pleasure excursions to fishing grounds or resorts are therefore taxable. (T. D. 2753; Aug. 23, 1918.)

—— Exemptions.

All boats of specified classes (other than boats used exclusively for national defense or built according to plans and specifications approved by the Navy Department) are taxed, unless they are used exclusively for trade. (T. D. 2753; Aug. 23, 1918.)

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Boats—Continued.

—— Foreign registry.

Boats used in the United States or navigating United States waters are subject to tax imposed by section 603 of act October 3, 1917, although of foreign register. (T. D. 2753; Aug. 23, 1918.)

—— Market produce.

Boats used to carry produce to market are used exclusively for trade and are not subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

—— Nonresident alien owners.

Boats used in United States or navigating United States waters are subject to tax imposed by section 603 of act October 3, 1917, although owned by nonresident aliens. (T. D. 2753; Aug. 23, 1918.)

—— Payment.

Person who has paid no tax at regular time by reason of intention not to use a boat, and later decides to use it, shall pay full tax without penalty or interest before using the boat, but owner not paying on time the tax upon boat which he actually intended to use shall be liable for full penalties. (T. D. 2753; Aug. 23, 1918.)

The tax on boats imposed by section 603 of act October 3, 1917, went into effect on October 4, 1917, and is to be paid annually in advance. (T. D. 2753; Aug. 23, 1918.)

—— Physicians.

Boat used by physician in visiting patients is not used for trade, but for other serious purpose, and is subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

—— Pleasure boats.

Boats operated for profit to carry passengers on pleasure trips to and from certain fishing grounds, is not used for trade, but for pleasure purposes, and is subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Boats used for pleasure, whether of the owner or of paying patrons, or for serious activities not constituting trade, are subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Motor boats operated by a company engaged in the business of taking parties on trips to enjoy the trip and the scenery are not used exclusively for trade and their use is subject to the excise tax on boats. (T. D. 2785; Jan. 23, 1919.)

—— Receipts.

Taxpayer must keep tax receipt about boat when in use available for examination by Government officers. (T. D. 2753; Aug. 23, 1918.)

—— Returns—Time.

Taxpayers must render returns on Form 732 to collector at such times within calendar month in which tax liability commenced as shall enable him to receive such returns duly signed and verified not later than last day of the month. (T. D. 2753; Aug. 23, 1918.)

—— Towage.

Boats used in towing disabled boats and furnishing repair service to customers are used exclusively for trade, and are not subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

—— Use as determining taxability.

Boat not used or intended to be used between July 1, 1918, and June 30, 1919, is not subject to tax imposed by section 603 of act October 3, 1917, but if used or intended to be used in such period tax was payable on July 1, 1918, for full year ending June 30, 1919; if on July 1 of any year, or on day of purchase if on another date, owner of boat intends to use it before the following July 1, or if he does use it before the July 1 following, tax attaches. (T. D. 2753; Aug. 23, 1918.)

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Boats—Continued.

—— **Use as determining taxability**—Continued.

All boats of the specified classes (other than boats used exclusively for national defense or built according to plans and specifications approved by the Navy Department) are taxed, unless they are used exclusively for trade; boats used for pleasure, whether of the owner or of paying patrons, or for serious activities not constituting trade, are subject to tax; it is the actual use of the boat which is controlling, regardless of whether or not the owner himself uses it or hires it out for profit. (T. D. 2753; Aug. 23, 1918.)

If boat is employed for several purposes its use is to be taxed, even though one of them is in trade; casual employment at irregular intervals for convenience of owner or his family, however, not exceeding such casual employment as is usual for boats maintained or employed in trade, will not cause tax to attach to boat which is entirely devoted to trade except for such limited casual use; boats used by owners in their oyster, fishing, or crabbing business, which are occasionally used to convey members of the family to market or other places, upon trips for personal or household purposes, are not subject to the tax. (T. D. 2753; Aug. 23, 1918.)

Imposition of transportation tax for persons transported by boat is not conclusive that boat is used for trade; if boat is used to carry freight for hire, it is not subject to tax imposed by section 603 of act October 3, 1917, but if used to carry passengers, distinction is between its operation in general commerce, as from New York to Boston, and its operation for plainly pleasure purposes, as from New York to Coney Island; boats carrying pleasure excursions to fishing grounds or resorts are therefore taxable. (T. D. 2753; Aug. 23, 1918.)

Motor boat operated solely in taking out fishing parties for hire is subject to excise tax on boats although it is licensed in the coasting trade, and transportation tax is collected from passengers. (T. D. 2795; Feb. 26, 1919.)

—— **Y. M. C. A.**

Boat used by Y. M. C. A. in transporting its religious workers and others is not used for trade, but for other serious purpose, and is subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Boric acid.

Boric acid when sold under a trade-mark as a medicinal preparation is taxable under section 600 (h) of act of October 3, 1917. (T. D. 2719; Art. XXII.)

Bottlers.

Where goods partly manufactured by one person are further manufactured by another before being marketed to consumers for use, latter is manufacturer for purpose of tax imposed by section 600 of the act of October 3, 1917; this applies to bulk goods that require to be bottled or otherwise prepared in order to put them into salable condition. (T. D. 2719; Art. II.)

A person who bottles or otherwise prepares an article, and merely for advertising purposes places on such article the name of any dealer who may handle it, shall be deemed manufacturer if names of both persons appear, but if only the dealer's name appears he shall be deemed the manufacturer. (T. D. 2719; Art. XXI.)

Cameras.

The tax imposed by section 600 (j) of the act of October 3, 1917, is 3 per cent of the price for which cameras are sold by the manufacturer; process and motion-picture cameras are subject to the tax; a camera sold without the lens is taxable, but not a lens sold separately; toy cameras are taxable if capable of taking a picture. (T. D. 2719; Art. XXV.)

Capital stock tax.

See "Capital Stock Tax."

Chewing gum.

The tax imposed by section 600 (i) of the act of October 3, 1917, is 2 per cent of the price for which chewing gum or any substitute therefor is sold by the manufacturer; substitutes include imitations designed to take the place of chewing gum; when chewing gum is covered with candy or otherwise combined with another substance, the tax is on the whole article. (T. D. 2719; Art. XXIV.)

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Claims for abatement, refund, or credit.

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid, and statement that goods were actually delivered to consignee named in a foreign country or the Philippine Islands or Porto Rico, pursuant to sale by claimant by one of the methods recognized in T. D. 2781, and that affiant has received advice to the effect, may be accepted as satisfactory evidence in support of claim for recovery back of excise taxes paid under Title VI of the act of October 3, 1917, in cases where because of number of shipments and small amount of tax involved in each it is impracticable to furnish copies of invoices covering goods sold, ship's receipts, or copies of through bills of lading. (T. D. 2785; Jan. 23, 1919.)

Since Revised Statutes, section 3464, only extends the exemption to cases covered by the regulations, if such regulations are not complied with and goods for Government use are delivered without regard thereto, the tax must be paid, and having been paid, can not be refunded. (T. D. 2785; Jan. 23, 1919.)

Statement of classes of claims for refund or abatement of sales taxes or penalties which may be made by collectors on Form 751 or blanket Form 47 where claim has not been filed by individual taxpayers; these claims must be submitted by the collector in triplicate, and notation showing reason for refund or abatement made opposite each taxpayer's name on such claims or at head of each group of names to which the same reason applies; claims for refund or abatement of sales taxes or penalties other than those specified herein must be made by individual taxpayer on Form 46 or Form 47, respectively, except in specific instances where the collector may be given authority by the department to use Form 751 or blanket Form 47. (T. D. 2991; Mar. 13, 1920.)

Statement of classes of claims for credit of sales taxes or penalties and interest which may be made by collectors on subsequent return where claim for refund or abatement has not been filed by individual taxpayer. (T. D. 3016; May 3, 1920.)

Claims for refund or abatement of sales taxes or penalties and interest other than those specified in this Treasury Decision must be made by individual taxpayer on Form 46 or 47, respectively, except in specific instances where collector may be given authority by the Bureau to use Form 751 or blanket Form 47. (T. D. 3016; May 3, 1920.)

Penalties of 5 per cent erroneously assessed under Revenue Act of 1917 on sales taxes in cases where formal demand in writing on Form 1-17 was not made on taxpayer should be refunded on Form 751 if collected, or abated on blanket Form 47 if not collected; all claims on these forms must be submitted by collector in triplicate, and notation showing reason for abatement (1) opposite each taxpayer's name on such claims, or (2) at head of each group of names to which same reason applies. (T. D. 3016; May 3, 1920.)

Computation.

In computing tax a fractional part of a cent should be disregarded unless it amounts to one-half cent or more, in which case it should be increased to a full cent. (T. D. 2719; Art. XXXIX.)

Corporations.

See "Corporations."

"Day this act is passed."

The words "on the day this act is passed," used in section 602 of act of October 3, 1917, construed in connection with section 1302 to mean day law becomes effective, that is, October 4, 1917. (T. D. 2570; Nov. 6, 1917.)

Dictagraphs.

Dictagraphs are not subject to the tax imposed by section 600 (b) of the act of October 3, 1917. (T. D. 2719; Art. XI.)

Dictaphones.

Dictaphones are not subject to the tax imposed by section 600 (b) of the act of October 3, 1917. (T. D. 2719; Art. XI.)

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Discounts.

In computing price at which goods are sold trade discounts may be deducted from list price for purpose of ascertaining tax, as amount of tax is determined by price at which goods are actually sold by the manufacturer, producer, or importer. (T. D. 2547; Oct. 22, 1917.)

A discount for cash or other discount made subsequently to sale can not be deducted in computing price for purpose of tax imposed by section 600 of the act of October 3, 1917. (T. D. 2719; Art. III.)

Distilled spirits.

See "Distilled Spirits."

Distributors' sales.

See "Agency sales," *ante.*

Exports.

Taxes imposed by sections 313, 315, and 600 of the act of October 3, 1917, do not apply to articles sold in foreign commerce by any of the methods outlined by manufacturer, producer, or importer located in one of the several States of the United States; this ruling applies only to cases of exportation by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer; T. D. 2739 revoked. (T. D. 2781; Dec. 20, 1918.)

Taxes imposed by such sections 313, 315, and 600 of the act of October 3, 1917, apply, however, to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Sale to concern doing business in United States is sale for domestic delivery unless terms of order or contract of sale show the seller is to export article or that he is to make such delivery of it as will result in its exportation. Examples of sale by manufacturer which are so taxable, notwithstanding ultimate exportation of articles sold, are: (1) Sale to dealer in United States, effected by compliance with his shipping instructions to export, given subsequent to contract of sale which did not require shipment; (2) sale to export commission house in United States, which is effected by shipment consigned to commission house at domestic port and which is followed by immediate exportation to foreign buyer in whose behalf purchase was made; (3) sale to corporation in United States which immediately exports to foreign concern of which it is a subsidiary; (4) sale to member of foreign partnership conducting buying business in United States for his firm and exporting articles bought. In such cases application of tax is not affected by provision in contract of sale requiring buyer to use or dispose of articles sold only in some foreign country. (T. D. 2781; Dec. 20, 1918.)

Articles may be normally exported in several ways: (1) They may be shipped by the manufacturer to agent in foreign country and after reaching there may be sold by the agent; (2) they may be shipped by manufacturer to foreign purchaser to fill orders received by agent in foreign country; (3) they may be shipped by manufacturer to foreign purchaser to fill orders received by manufacturer in United States; (4) they may be shipped by manufacturer to foreign purchaser to fill orders solicited by mail and received by mail from foreign purchaser; T. D. 2739 superseded. (T. D. 2781; Dec. 20, 1918.)

Food preparations.

Food preparations as distinguished from medicinal preparations are not taxable under section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

Games.

See "Sporting goods and games," *post.*

Graphophones.

The tax imposed by section 600 (b) of the act of October 3, 1917, is 3 per cent of the price for which graphophone and records used in connection therewith are sold by the manufacturer; accessories are not taxable unless sold in combination. (T. D. 2719; Art. XI.)

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Importer—Definition.

An "importer," within Regulations No. 44, is a person who causes an article to be brought into the United States from a foreign country; a retailer may be also an importer. (T. D. 2719; Art. II.)

Income taxes—Deductions.

Excise taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

Banks paying taxes assessed against stockholders on account of ownership of shares of stock issued by such bank can not deduct amount of taxes so paid unless and to extent that laws of State in which they do business by specific terms make tax direct liability of such banks; fact that State laws make it duty of banks to pay tax does not necessarily make tax a liability of the banks, and such payments are not deductible from gross income of such banks; rule applies only to taxes levied upon value of capital stock and is not intended to prevent bank from deducting any State tax imposed on value of corporation's real estate, furniture, and fixtures, or as an excise or franchise tax; rule applies in case of corporations other than banks, upon value of whose stock taxes are assessed to the stockholders. (T. D. 2690; art. 192.)

Inspection of books.

Books of every person liable to tax shall be open at all times for inspection by examining internal revenue officers. (T. D. 2719; Art. XXVI.)

Insurance.

See "Insurance."

Itinerant manufacturers.

Itinerant manufacturer should make return and pay tax to collector of district where sales are made. (T. D. 2719; Art. XXVI.)

Jewelry.

Tax imposed by section 600 (e) of the act of October 3, 1917, is 3 per cent of the price for which any article commonly or commercially known as jewelry, whether real or imitation, is sold by the manufacturer; all articles, among others, which have been specifically classified as jewelry by the Board of United States General Appraisers deemed to be jewelry; jewelry includes ornaments made of gold, silver, or platinum, or any imitations thereof, and precious or semiprecious stones or imitations thereof, used for personal adornment; an article may be jewelry although serving a useful as well as ornamental purpose; rulings as to watches, silver tableware, opera glasses, clocks, precious stones, vanity boxes, garters, suspenders, emblem buttons, etc. (T. D. 2719; Arts. XIII–XVI.)

The presence of a ring or loop by which a pencil made or plated with precious metal may be hung on a chain indicates that such pencil was designed for personal adornment and requires it to be classified as jewelry for purposes of excise tax on sales. (T. D. 2785; Jan. 23, 1919.)

Liberty bonds—Exemptions.

Corporation owning Liberty bonds is not, to that extent, exempt from franchise taxes, excise taxes, and other corporation taxes of the United States, and of the several States. (T. D. 2512; June 8, 1917.)

Licorice.

Licorice put up in sticks, lozengers, or in other forms suitable for medicinal purposes and sold under a trade-mark is subject to the tax imposed by section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

Manufacturer—Definition.

A "manufacturer" within Regulations No. 44, relating to war excise taxes, is a person who prepares an article in final marketable form and sells or markets it; if goods partly manufactured by one person are further manufactured by another before being marketed to consumers for use, latter is manufacturer for purpose of tax; a retailer may be also a manufacturer. (T. D. 2719; Art. II.)

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Manufacturer—Continued.

—— **Reimbursement.**

The "passing on" to the purchaser of the excise tax on sales is not a collection of the tax for the Government but a private transaction between the manufacturer and the purchaser; the department can not undertake to advise the manufacturer as to the method of securing reimbursement, the only interest of the Government being that the amount of tax shall not be misrepresented to the purchaser. (T. D. 2785; Jan. 23, 1919.)

Medicinal preparations—Articles included.

The word "medicinal" is applicable to any substance adapted to cure or alleviate disease or pain; accordingly, a medicinal preparation is a preparation of any substance whatever intended to be applied for the cure or mitigation of pain or disease; many articles or substances which are not usually considered as belonging to material medica may become taxable medicinal preparations by being held out or advertised as remedies for diseases affecting the human or animal body. (T. D. 2719; Art. XXII.)

—— **"Held out or recommended."**

"Held out or recommended," as used in section 600 (h) of the act of October 3, 1917, includes representation by any means, personal canvass and statements on the labels, in pamphlets, or advertisements, or otherwise; a holding out or recommendation intended for physicians only is a holding out to the public. (T. D. 2719; Art. XXI.)

Medicinal preparation held out or recommended as proprietary or as a remedy or specific for disease is taxable, (a) even if sold, in first instance, only to physicians and druggists, (b) even if a "bacterin," and (c) even if an uncompounded natural substance merely dried or refined. (T. D. 2785; Jan. 23, 1919.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label does not amount to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

—— **Manner in which prepared, etc.**

Tax applies to medicinal preparation held out by producer to the public as a proprietary medicine or as a remedy for disease, although it is prepared by a process which merely refines a natural substance. (T. D. 2719; Art. XXII.)

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part or name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

—— **Manufacturer.**

Person manufacturing preparation under his own formula and offering it for sale under his own private label or trade-mark is liable for tax; manufacturer who also bottles and otherwise prepares his preparation into a salable condition, and who, for advertising purposes only, places name on label of any dealer who may handle such preparation, is liable for the tax; where manufacturer prepares article according to formula and at instance of a dealer, and also bottles, labels, and otherwise prepares same into salable condition, even though name of dealer only appears upon product, manufacturer and not dealer is responsible for tax; where goods manufactured by person require further manufacture before being used by consumer, one completing manufacture is liable for tax, therefore person preparing goods into smaller packages, labeling, and bottling them, is manufacturer within meaning of paragraphs (g) and (h) of section 600 of act of October 3, 1917. (T. D. 2638; Jan. 24, 1918.)

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Medicinal preparations—Continued.

—— **Manufacturer**—Continued.

A person who bottles or otherwise prepares an article, and merely for advertising purposes places on such article the name of any dealer who may handle it, shall be deemed manufacturer if names of both persons appear, but if only the dealer's name appears he shall be deemed the manufacturer. (T. D. 2719; Art. XXI.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art. XXI.)

Where the owner of a formula contracts with a maufacturer to prepare an article according to such formula and to deliver it to him in complete, salable form, the labels bearing the formula owner's name, he is considered the manufacturer. (T. D. 2719; Art. XXI.)

A person who is employed to make an article and receives for it the cost of materials and labor, plus specified profit, shall be considered a manufacturing agent, and the person who procures the preparation of the article will be considered the manufacturer. (T. D. 2719; Art. XXI.)

If article or its container has on it both a trade-mark or trade name of one manufacturer, and the individual or business name of another, the owner of the trade-mark or trade name will be deemed the manufacturer; if the article or its container has on both the commercial name of the article and an individual or business name) the latter will be deemed to designate the manufacturer. (T. D. 2719; Art. XXI.,

Where sirups or extracts taxable under section 313 (a) of the act of October 3, 1917, are prepared in final marketable form by A, who marks or labels them only with the name or trade-mark of B, who on their being delivered to him sells them without further manufacture to his own customers. if transaction between A and B is an actual sale and not merely employment of A by B to manufacture the articles as his agent at a specified profit, A is the "manufacturer" who is liable for the tax; article 2 of Regulations No. 44 can not be construed as adopting any of the provisions of article 21. (T. D. 2795; Feb. 26, 1919.)

—— **Printing on labels, etc.**

Printing on labels the directions and indications for use, dosage and other similar matter, will not alone render preparations made under a standard formula taxable, provided preparation is not held out or recommended as a proprietary preparation or as a remedy or specific; where medicinal preparations are sold under labels which do not indicate that the formula is published they will be considered to be prepared under private formulas, unless proof is submitted that the formula is not secret. (T. D. 2719; Art. XXII.)

—— **Rate of tax.**

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer; provided that (1) the manufacturer claims to have any private formula, secret or occult art for making or preparing them; or (2) the manufacturer has or claims to have any exclusive right or title to making or preparing them; or (3) they are prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark; or (4) they are held out or recommended to the public by the makers, venders, or proprietors thereof, either (a) as proprietary medicines or medicinal proprietary articles or preparations, or (b) as remedies or specifics for any disease or affection whatever affecting the human or animal body. (T. D. 2719; Art. XIX.)

—— **Scope of tax.**

Every medicinal preparation, compound, or composition embraced within one or more of the subdivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not

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Medicinal preparations—Continued.

—— **Scope of tax**—Continued.

held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Autographic name of manufacturer of medicinal preparation printed across middle of label is not a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, is not of itself a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, is a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

—— **Waters exempted.**

Artificial mineral waters, not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

Motorcycles.

A motorcycle is a motor-driven bicycle. (T. D. 2719; Art. VIII.)

Speedometers and other attachments and accessories to motorcycles are not taxable when sold separately, but they are when sold as part of a motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

Side cars for motorcycles are not taxable when sold separately, but they are when sold as part of a motorcycle, or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

Moving-picture films—Exemptions.

There is no exemption from tax imposed by section 600 of the act of October 3, 1917, in the case of films used exclusively for educational, charitable, or religious purposes. (T. D. 2719; Art. XII.)

—— **Exhibitor or exchange.**

A foreign Government or a State, or any political subdivision thereof, buying or leasing an article for its own use is not a dealer, nor in case of moving-picture films is it an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

Where manufacturer has prior to May 9, 1917, made bona-fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much of tax as is not so permitted to be added to contract price; this applies to contracts with dealer, exchange, or exhibitor for sale or lease of moving-picture films. (T. D. 2719; Art. XXXVII.)

—— **Laboratories.**

Where a laboratory simply does the mechanical work of producing the positive print, charging the owner of the negative for materials used and services rendered, such laboratory will not be regarded as the manufacturer of the film; the tax is upon the sale or lease by the owner of the film; the laboratory, however, shall keep a record of all such films produced with name of owner and length of film, such record to be available for examination by internal revenue officers, and shall furnish monthly to collector of district in which it is located a signed statement, giving such information. (T. D. 2719; Art. XII.)

—— **Rate of tax.**

The tax imposed by section 600 of the act of October 3, 1917, is one-fourth of 1 cent for each linear foot of unexposed moving-picture films sold by the manufacturer and one-half of 1 cent for each linear foot of positive moving-picture films, containing picture ready for projection, sold or leased by the manufacturer. (T. D. 2719; Art. XII.)

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Moving-picture films—Continued.

—— Repairs.

Tax imposed by section 600 of the act of October 3, 1917, does not apply to repairs of positive films, but does to the negative film used in making such repairs. (T. D. 2719; Art. XII.)

—— Sales or leases taxable.

Tax imposed by section 600 of the act of October 3, 1917, applies to the first sale or lease of any new positive moving-picture films and not to the second or any subsequent sale or lease. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, does not apply to moving-picture films leased by the manufacturer, producer, or importer located in one of the several States of the United States, where such films are exported by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer. (T. D. 2781; Dec. 20, 1918.)

—— Time of sale or lease.

Tax imposed by section 600 of the act of October 3, 1917, does not attach to films first sold or leased prior to October 4, 1917. (T. D. 2719; Art. XII.)

—— Titles or subtitles.

Printed or hand-lettered titles or subtitles used in connection with a picture production constitute part of the film and should be included in the length of the film upon which the tax, imposed by section 600 of the act of October 3, 1917, is computed, but if such titles are in the form of separate slides or announcements, the tax does not attach. (T. D. 2719; Art. XII.)

Munition manufacturers.

See "Munition Manufacturers' Tax."

Occupations.

See "Occupational Taxes."

Payment—Collection of price.

Tax imposed by act of October 3, 1917, is payable in respect of sale made whether or not purchase price is actually collected, but if articles sold are returned and sale entirely rescinded no tax is payable, and if paid it is refundable. (T. D. 2719; Art. VI.)

—— Dealers.

Where manufacturer has, prior to May 9, 1917, made bona fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much of tax as is not so permitted to be added to contract price; this applies to contracts with dealer, exchange, or exhibitor for sale or lease of moving-picture films. (T. D. 2719; Art. XXXVII.)

Taxes payable by dealer must be paid to manufacturer at time sale or lease is consumated, and such manufacturer shall collect amount of tax from the dealer and pay same to collector of district in which his principal office or place of business is located. (T. D. 2719; Art. XXXVIII.)

Section 1007 of the act of October 3, 1917, permits an adjustment of tax between manufacturer and dealer, but it does not affect the liability of the manufacturer to return and pay tax to the Government. (T. D. 2719; Art. XXXVII.)

The term "dealer" does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

A foreign Government buying or leasing an article for its own use is not a dealer, nor in case of moving-picture films is it deemed an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

A State or any political subdivision thereof buying or leasing an article for its own use is not a dealer, nor in the case of moving-picture films is it deemed an exhibitor or exchange. (T. D. 2719; Art. XXXVII.

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Payment—Continued.

—— **Exchange of article.**

Where article is sold and thereafter exchanged for another article of a higher price purchaser paying difference, vendor should pay tax on second sale, but may take credit for tax paid on returned article. (T. D. 2719; Art. VI.)

—— **Imports.**

On articles manufactured for jobber by foreign manufacturer, jobber must pay tax as importer. (T. D. 2719; Art. VI.)

—— **Jobbers.**

On articles manufactured for jobber by foreign manufacturer, jobber must pay tax as importer. (T. D. 2719; Art. VI.)

—— **Manufacturer's liability.**

Tax imposed by act of October 3, 1917, is to be paid by manufacturer on all sales made directly by him or through an agent. (T. D. 2719; Art. VI.)

Each manufacturer of articles enumerated in section 600 of the act of October 3, 1917, required to pay taxes imposed to collector for district in which principal place of business is located; tax should be paid on or before last day of each month covering transactions of preceding month; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on the gross price, may be adjusted in return for month in which price is finally determined; itinerent manufacturer should pay tax to collector of district where sales are made. (T. D. 2719; Art. XXVI.)

—— **Receivers.**

A receiver continuing a business under court order is liable to tax on articles produced and sold by him. (T. D. 2719; Art. VI.)

—— **Retailers.**

Where manufacturer consigns articles to retailer, retaining ownership in them until they are disposed of by the retailer, the manufacturer must pay the tax on all goods sold to the retailer, as shown by reports to be procured by him monthly from the retailer. (T. D. 2719; Art. VI.)

—— **Time.**

Taxes payable by dealer shall be paid to manufacturer at time sale or lease is consumated; and such manufacturer shall collect amount of tax from dealer and pay taxes so collected to collector of district in which his principal office or place of business is located. (T. D. 2719; Art. XXXVIII.)

Penalties.

In addition to penalties provided by section 1004 of the act of October 3, 1917, other punishment for failure to comply with law and regulations is prescribed by section 3176 of the Revised Statutes, as amended, and by other sections of the internal revenue laws. (T. D. 2719; Art. XL.)

Phonographs, etc.

The tax imposed by section 600 (b) of the act of October 3, 1917, is 3 per cent of the price for which phonographs and records used in connection therewith are sold by the manufacturer; accessories are not taxable unless sold in combination. (T. D. 2719; Art. XI.)

Piano players, etc.

The tax imposed by section 600 (b) of the act of October 3, 1917, is 3 per cent of the price for which the piano players and records used in connection therewith are sold by the maufacturer; accessories to such articles other than records are not taxable unless sold in combination therewith; a piano player is a device designed to play a piano mechanically and may be separate from the piano or incorporated in it; device and the piano together are sometimes known as a player piano; the tax is upon the piano player and not upon the complete player piano unless the price of the player embodied in the player piano can not be separately determined. (T. D. 2719; Art. XI.)

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Producer—Definition.

The term "producer," as used in Regulations No. 44, is a broader term than "manufacturer," which is defined as a person who prepares an article in final marketable form and sells or markets it; a retailer may be also a producer. (T. D. 2719; Art. II.)

Proprietary medicines.

See "Medicinal preparations," *ante.*

Public utilities.

See "Public Utilities"; "Telegraphs and Telephones"; "Transportation Tax."

Remittal.

Under authority of section 3464 of the Revised Statutes tax on articles sold the Government may be remitted in cases within the scope of Regulations No. 34. (T. D. 2719; Art. VII.)

Retailer of goods.

A retailer who is not also a wholesaler is a retailer who does not from the same stock of goods also sell at wholesale; hence, where wholesale and retail stocks are kept separate tax applies only to wholesale stock; where automobiles are sold at both wholesale and retail by person who acts as agent for manufacturer, no floor tax applies, but manufacturer is liable for tax upon all sales. (T. D. 2601; Dec. 3, 1917.)

A retailer of goods may be also a manufacturer, producer, or importer, as such persons are defined by Regulations No. 44, relating to war excise taxes. (T. D. 2719; Art. II.)

Returns.

Each manufacturer of the articles enumerated in section 600 of the act of October 3, 1917, required to make monthly returns under oath, in duplicate, to collector for district in which his principal place of business is located, returns to be made on Form 728, and to be rendered on or before last day of each month covering transaction of preceding month, first return to cover all transactions since October 3, 1917; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on gross price, may be adjusted in return for month in which price is finally determined; branch houses should in general make report to parent house which is liable to make monthly returns of sales of branch house; itinerant manufacturer should make return to collector of district where sales are made. (T. D. 2719; Art. XXVI.)

Section 1007 of the act of October 3, 1917, permits an adjustment of tax between manufacturer and dealer, but it does not affect the liability of the manufacturer to return and pay tax to the Government. (T. D. 2719; Art. XXXVII.)

Manufacturer who has collected amount of tax from dealer required to make monthly returns under oath in duplicate on Form 728 or Form 726. (T. D. 2719; Art. XXXVIII.)

Sale defined.

An article is sold within Regulations No. 44, relating to war excise taxes, when title to it passes from the seller to the buyer, pursuant to a previous contract of sale or upon a sale without previous contract. (T. D. 2719; Art. IV.)

Selling corporation, sales through.

In case of selling corporation owning substantially all the stock of a manufacturing corporation which nominally sells all or part of its products to selling corporation, manufacturing corporation is regarded as manufacturing agent, and taxable sales are those made by selling corporation. (T. D. 2719; Art. V.)

Soap.

The tax imposed by section 600 (g) of the act of October 3, 1917, is 2 per cent of the price for which soaps are sold by the manufacturer; soaps advertised or held out as suitable for toilet purposes are taxable; kitchen soap powders and other articles ordinarily used for household and not for toilet purposes are not subject to tax. (T. D. 2719; Art. XVIII.)

A soap powder chiefly designed for laundry purposes and sold by the manufacture in bulk to laundries and also sold for retail distribution to the public in packages bearing directions for use as a hair shampoo, for which it is to a small extent actually used, is subject to excise tax upon the sales in packages, but not upon the sales in bulk. (T. D. 2785; Jan. 23, 1919.)

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Sporting goods and games.

Tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of price for which the various sporting goods and games enumerated are sold by the manufacturer; sleds, snowshoes, skis, and skates are not taxed; parts of sporting goods and accessories not enumerated are not taxable if sold separately; heads and shafts of golf clubs are not taxed until combined and sold as complete clubs; parts of games are taxable, and if used in a complete game sold as such the tax attaches even though parts have been separately taxed; game of cribbage is taxed as a whole, although it consists partly of playing cards on which a tax has been paid; balls of all kinds are taxable, including balls for putting the shot; card games to be played by adults as well as children, other than ordinary playing cards, are subject to the tax. (T. D. 2719; Art. XVII.)

Bowling alley tenpins are "parts of games" within the meaning of section 600 (f) of the act of October 3, 1917, and are subject to taxation thereunder. (T. D. 2795; Feb. 26, 1919.)

Where baseball bats or other sporting goods taxable under section 600 (f), act of October 3, 1917, are prepared in final marketable form by A, who marks or labels them only with the name or trade-mark of B, who on their being delivered to him sells them without further manufacture to his own customers, if transaction between A and B is an actual sale and not merely employment of A by B to manufacture the articles as his agent at a specified profit, A is the "manufacturer" who is liable for the tax; article 2 of Regulations No. 44 can not be construed as adopting any of the provisions of article 21. (T. D. 2795; Feb. 26, 1919.)

State, sales to.

Articles sold to a State or a political subdivision thereof for use in carrying on its governmental operations are not subject to tax. (T. D. 2719; Art. VII.)

Talking machines.

The tax imposed by section 600 (b) of the act of October 3, 1917, upon graphophones, phonographs, talking machines, and records used in connection therewith, is 3 per cent of the price for which sold by manufacturer; accessories, other than records, are not taxable unless sold in combination; toy talking machines are taxable. (T. D. 2719; Art. XI.)

Time tax attaches.

The tax levied by section 600 of the act of October 3, 1917, is imposed on all articles sold by the manufacturer, producer, or importer, on or after October 4, 1917, even though manufactured, produced, or imported before that date. (T. D. 2719; Art. I.)

The tax attaches when the article is sold; that is to say, when title passes from seller to buyer pursuant to previous contract of sale or upon sale without previous contract; when title passes is question of fact, dependent upon intention of parties as gathered from contract of sale and surrounding circumstances; in absence of intention to contrary, title is presumed to pass upon delivery of article to buyer or to carrier for the buyer. (T. D. 2719; Art. IV.)

In case of lease of moving-picture films tax attaches when manufacturer enters into contract of lease, either express or implied, and pursuant thereto delivers film to lessee or to carrier for lessee. (T. D. 2719; Art. IV.)

In case of conditional sale, where title is reserved until payment of purchase price in full, tax attaches upon such payment, or when title passes if before completion of payments. (T. D. 2719; Art. IV.)

Tobacco and manufactures thereof.

See "Cigars"; "Cigarettes"; "Snuff"; "Tobacco."

Toilet articles.

The tax imposed by section 600 (g) of the act of October 3, 1917, upon toilet articles and soaps is 2 per cent of the price for which they are sold by the manufacturer; soaps advertised or held out as suitable for toilet purposes are taxable; containers of perfumes, if billed and shipped separately, raw materials, and floor oils, floor wax, kitchen soap powders, and other articles ordinarily used for household and not for toilet purposes, are not subject to the tax; concentrated essences sold to druggists and manufacturers for making toilet articles, but not for use as such, are not subject to the tax. (T. D. 2719; Art. XVIII.)

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Toilet articles—Continued.

On the sale for a lump price, of a fountain shaving brush with a filled shaving cream cartridge which is separate and replaceable, the excise tax is only upon the price of the filled cartridge as separately determined, namely, the established retail price of the filled cartridges sold separately. (T. D. 2782; Dec. 24, 1918.)

United States, sales to.

Articles sold to the Government in the ordinary course of business are taxable, but where Government supplies manufacturer with all materials and parts except small portion furnished by manufacturer, under contract stipulating that manufacturer shall be guaranteed a certain profit, no tax is payable because manufacturer does not sell the articles; articles manufactured in plants taken over and operated by Government are not subject to tax. (T. D. 2719; Art. VII.)

Waters.

Artificial mineral waters not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic-acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

"Wholesaler."

The word "wholesaler" as used in section 602 of act of October 3, 1917, does not include a retailer who occasionally sells goods to other retailers at less than retail prices, unless it appears that an effort was made to solicit such business for profit. (T. D. 2570; Nov. 6, 1917.)

EXCURSION BOATS.

Admissions.

Charges of excursion boats providing opportunity for dancing are subject to tax imposed by section 700 of act of October 3, 1917, where such charges exceed the usual or reasonable rates for transportation furnished. (T. D. 2681; Mar. 26, 1918.)

Excise taxes.

Imposition of transportation tax for persons transported by boat is not conclusive that boat is used for trade; if boat is used to carry freight for hire, it is not subject to tax imposed by section 603 of act October 3, 1917, but if used to carry passengers, distinction is between its operation in general commerce, as from New York to Boston, and its operation for plainly pleasure purposes, as from New York to Coney Island; boats carrying pleasure excursions to fishing grounds or resorts are therefore taxable. (T. D. 2753; Aug. 23, 1918.)

EXECUTION.

Income taxes—Claim.

When suit to recover tax is decided in favor of United States, and execution issued and returned nulla bona as respects whole or part of judgment, collector should satisfy himself whether or not any personal property can be found to satisfy such judgment, and whether there is any real property which can be subjected, by distraint or by suit in equity, under section 3207, Revised Statutes, to sale in satisfaction of judgment; where satisfied that there is no such real or personal property collector should present to commissioner a claim on Form 53 for abatement of amount not collected, if it has not already been abated, making statement thereon of his action, accompanied by certificate of clerk of court as to facts in case. (T. D. 2690; art. 253.)

EXECUTORS AND ADMINISTRATORS.

See "Estates"; "Estate Tax"; "Fiduciaries."

EXEMPTIONS.

See specific heads.

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EXHIBITIONS.

See "Admissions"; "Occupational Taxes."

EXPENSES.

Deputy collectors.

Effective July 1, 1919, field deputy collectors entitled to actual necessary traveling expenses and reimbursement for amount actually expended for lodging and subsistence not to exceed statutory limit of $5 per day when absent from designated posts of duty; post of duty shall be fixed within division to which such collector is assigned, and shall be designated at the largest town or city in that division. (T. D. 2384; July 9, 1919.)

Net income for income-tax purposes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

Reserve funds.

Assets required to be held by insurance company to meet ordinary running expenses, such as taxes, salaries, reinsurance, and unpaid brokerage, are not reserve funds "required by law" for purpose of determining whether there has been net addition to reserve funds within the year. (T. D. 3013; May 3, 1920. Ct. Dec.)

EXPORTS.

Alcohol in tanks or tank cars.

Alcohol or other distilled spirits of not less than 180° proof may be drawn from receiving cisterns at any distillery or from storage tanks in distillery warehouse into tanks or tank cars for export from United States. (T. D. 2368; Sept. 11, 1916.)

Monthly report of spirits withdrawn from receiving cisterns required to be made on supplemental Form 94A; contents. (T. D. 2368; Sept. 11, 1916.)

Bonded carriers to which shipments of spirits in tanks or tank cars are delivered for transportation for export required to procure certain seals for securing cars for use until such time as Commissioner of Internal Revenue may adopt a suitable seal; ordering, numbering, and affixing of seals; duty of collector of customs where seals are found to be intact at frontier point; duties of customs inspector where seals are found to be broken or tampered with. (T. D. 2368; Sept. 11, 1916.)

Each tank or tank car will be regarded as an original package, and an export stamp, to be procured by the shipper, will be affixed to each such tank or tank car (T. D. 2368; Sept. 11, 1916.)

Applications for withdrawal of alcohol or other distilled spirits for exportation in tanks or tank cars, and bonds covering tax on spirits to be withdrawn, will be same as for spirits contained in original packages, except that in distributing the spirits the serial number of the storage tank will be given, or if withdrawal is to be made direct from receiving cistern, application and bond will so state. (T. D. 2368; Sept. 11, 1916.)

When alcohol or other distilled spirits are to be withdrawn from distillery bonded warehouse free of tax for export in tanks or tank cars, metal storage tanks must be provided in such warehouse to be constructed and arranged with proper pipe connections and suitable weighing tanks, as prescribed in Regulations No. 30; when withdrawals are to be made direct from receiving cisterns into tanks or tank cars, storage tanks need not be provided in such warehouse, in which case the weighing tanks will be located in the distillery cistern room (T. D. 2368; Sept. 11, 1916.)

Exportation of alcohol or other distilled spirits in tanks or tank cars restricted to shipments by railroad destined for points in contiguous foreign territory. (T. D. 2368; Sept. 11, 1916.)

Distilled spirits.

Under section 405 of the act of September 8, 1916, gin of not less than 80 per cent proof may be bottled in bond in bottling warehouse on distillery premises for export at any time within eight years after entry in bond in distillery warehouse; except as herein provided Regulations No. 23, revised December 21, 1912, and Regulations No. 29, revised August 18, 1914, are made applicable to withdrawal and bottling in bond for export before expiration of four years after entry in bonded distillery warehouse; spirits withdrawn tax paid and spirits withdrawn for export can

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Distilled spirits—Continued.

not be permitted in bottling warehouse of distillery at same time. (T. D. 2371; Sept. 15, 1916.)

Claims for remission of tax on spirits lost in transit for export not required where spirits are shipped in sealed cars and the seals on arrival of cars are found intact and where loss reported does not exceed 4 wine gallons as to any one package, provided average loss does not exceed 2 wine gallons per package as to all packages gauged; requisites of application for relief where loss reported exceeds amount stated; certificate setting forth whether spirits were insured in excess of market value thereof exclusive of tax; regulations applicable to spirits lost when shipped in unsealed cars except that loss in excess of 1 proof gallon per package will be regarded in such cases as excessive. (T. D. 2461; Mar. 16, 1917.)

Gaugers required in making up Form 59 reporting spirits withdrawn from warehouse for export upon original gauge to enter in proper columns complete data as to each package appearing in Form 59 reporting the entry gauge; when such spirits are shipped for export in cars sealed with "U.S.C. in bond" seals, gauger will prepare separate Form 59 for packages shipped in each car and serial numbers of seals will also be stated in Form 206, together with serial number of packages; bills of lading for each car required to have seal numbers noted thereon. (T. D. 2473; Apr. 2, 1917.)

Requirement of article 34, Regulations No. 23, requiring name of domestic port of clearance and port of foreign destination to be marked on cases of distilled spirits bottled in bond for export, waived; distillers, however, required to mark on "Government side" of the cases the words "For export from U. S. A." (T. D. 2486; Apr. 21, 1917.)

Rate of tax in cases of loss in transit for export will be determined by date on which spirits were inspected by customs gauger at port of export; rate on spirits inspected on or before October 3, 1917, will be $1.10 per proof gallon, but where loss is discovered on or after October 4, 1917, tax due on loss will be at rate of $3.20 per proof gallon. (T. D. 2539; Oct. 17, 1917.)

Metal packages for containing distilled spirits for export not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided the required marks are stenciled on the heads by use of permanent stenciling material. (T. D. 2822; Apr. 19, 1919.)

Drafts—Stamp tax.

Because of the constitutional restriction that no tax or duty shall be laid on articles exported from any State, drafts with bills of lading attached covering goods in course of exportation are not subject to the tax. (T. D. 2682; Mar. 26, 1918.)

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

Drawbacks.

Manufacturers of narcotics may lawfully furnish to any duly accredited special agent or customs agent of the Treasury Department, samples required in order to make analyses to establish allowance of drawback on manufactured drugs exported from this country, taking receipt of such officer therefor, which will be filed with official narcotic order forms and records. (T. D. 2487; Apr. 23, 1917.)

Where alcohol is exported in its natural condition, drawback thereon allowed only when alcohol is exported in the distillers' original casks or packages, and allowances is limited by section 3329, Revised Statutes, to 90 cents per proof gallon; where the alcohol is used in manufacture of flavoring extracts, medicinal or toilet preparations for export, the drawback should include both tax of $1.10 per proof gallon, and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

There is no drawback on exported automobiles, automobile trucks, etc. (T. D. 2591; Nov. 24, 1917.)

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Excise taxes.

Taxes imposed by sections 313, 315, and 600 of the act of October 3, 1917, do not apply to articles sold in foreign commerce by any of the methods outlined by manufacturer, producer, or importer located in one of the several States of the United States; this ruling applies only to cases of exportation by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer; T. D. 2739 revoked. (T. D. 2781; Dec. 20, 1918.)

Taxes imposed by such sections 313, 315, and 600 of the act of October 3, 1917, apply, however, to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Phillippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Sale to concern doing business in United States is sale for domestic delivery unless terms of order or contract of sale show the seller is to export article or that he is to make such delivery of it as will result in its exportation. Examples of sale by manufacturer which are so taxable, notwithstanding ultimate exportation of articles sold, are: (1) Sale to dealer in United States, effected by compliance with his shipping instructions to export, given subsequent to contract of sale which did not require shipment; (2) sale to export commission house in United States, which is effected by shipment consigned to commission house at domestic port and which is followed by immediate exportation to foreign buyer in whose behalf purchase was made; (3) sale to corporation in United States which immediately exports to foreign concern of which it is a subsidiary; (4) sale to member of foreign partnership conducting buying business in United States for his firm and exporting articles bought. In such cases application of tax is not affected by provision in contract of sale requiring buyer to use or dispose of articles sold only in some foreign country. (T. D. 2781; Dec. 20, 1918.)

Tax imposed by section 600 of the act of October 3, 1917, does not apply to moving-picture films leased by the manufacturer, producer, or importer located in one of the several States of the United States, where such films are exported by manufacturer making the sale on which but for the exportation he would be liable for the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer. (T. D. 2781; Dec. 20, 1918.)

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid and statement that goods were actually delivered to consignee named in a foreign country or the Philippine Islands or Porto Rico, pursuant to sale by claimant by one of the methods recognized in T. D. 2781, and that affiant has received advice to the effect, may be accepted as satisfactory evidence in support of claim for recovery back of excise taxes paid under Title VI of the act of October 3, 1917, in cases where because of number of shipments and small amount of tax involved in each it is impracticable to furnish copies of invoices covering goods sold, ship's receipts, or copies of through bills of lading. (T. D. 2785; Jan. 23, 1919.)

Income taxes.

The net income from the venture of exportation when completed, that is to say, after the exportation and sale are actually consummated, is subject to taxation under the general laws. (T. D. 2726; June 4, 1918. Ct. Dec.)

Income tax imposed by the act of October 3, 1913, is not laid on articles in course of exportation or on anything which inherently or by the usages of commerce is embraced in exportation or any of its processes, but on the contrary is a general tax. (T. D. 2726; June 4, 1918. Ct. Dec.)

Manner of exporting.

Articles may be normally exported in several ways—(1) they may be shipped by the manufacturer to agent in foreign country and after reaching there may be sold by the agent; (2) they may be shipped by manufacturer to foreign purchaser to fill orders received by agent in foreign country; (3) they may be shipped by manufacturer to foreign purchaser to fill orders received by manufacturer in the United States; (4) they may be shipped by mabufacturer to foreign purchaser to fill orders solicited by mail and received by mail from foreign purchaser; T. D. 2739 superseded. (T. D. 2781; Dec. 20, 1918.)

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Tobacco, cigarettes, etc.

Instructions with reference to the shipment from tobacco and cigarette factories of so-called soldiers' kits or cartons containing packages of tobacco and cigarettes to New York, there to be repacked under supervision of customs officer for exportation to United States soldiers in Europe. (T. D. 2517; Aug. 17, 1917.)

No provision is made by law for the exportation without the payment of tax of cigarette papers in packages, books, or sets, or of cigarette tubes. (T. D. 2552; Oct. 22, 1917.)

Transportation tax.

Amounts paid for transportation of property in course of exportation to foreign ports or places are exempt from tax imposed under section 500 of act of October 3, 1917; conditions under which property may be deemed to be in course of exportation stated; if, when property is delivered to carrier, it appears that goods are in course of exportation, no tax shall be collected on amounts of any otherwise taxable charges prepaid upon such property; tax must be collected as and when transportation charges are collected, if transportation charges be billed collect or upon delivery of consignment if charges be prepaid. (T. D. 2676; Mar. 18, 1918.)

Adjustment of tax by carrier on ground that charge is exempted by reason of exportation is not authorized after collection of charge and tax. (T. D. 2676; Mar. 18, 1918.)

Procedure to be observed in filing claims for refund of transportation tax based on ground that tax was collected on property in process of exportation stated. (T. D. 2727; June 5, 1918.)

Wines.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philipine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D. 2387; Oct. 30, 1916.)

Where domestic wines are to be removed from bonded premises free of tax for exportation, party intending to export same shall file with collector of district in which such premises are located bond in stated form, to be executed in duplicate, one copy to be retained by collector, and one copy to be forwarded to Commissioner of Internal Revenue; penal sum of bond must be at least equal to double amount of tax on estimated quantity of wine to be removed during period of three months, and in no case less than $1,000; bond will be continuing bond, and an account will be kept with each bond in which principal will be charged with tax on each lot removed for exportation and will receive credit for each lot concerning which satisfactory proof of exportation is received. (T. D. 2416; Dec. 12, 1916.)

Withdrawal and export entry required to be in stated form, and when approved to be returned to exporter and by him filed in duplicate with collector of customs at port from which wines are to be shipped at least six hours prior to shipment; upon issuing certificate of clearance original entry required to be returned to collector of internal revenue, who will credit export bond and will forward entry and bill of lading to Commissioner of Internal Revenue. (T. D. 2416; Dec. 12, 1916.)

Where exportation is by rail and locks, seals, and tags on cars are found intact, collector required to append to entry or transportation manifest, and under seal specified certificate; return of entry and transportation manifest to collector at port from which merchandise was originally shipped; certificate of collector of port from which merchandise was shipped. (T. D. 2505; June 25, 1917.)

Where exportation is otherwise than by rail, and wines are found to agree with what is specified in entry, collector required, after goods have been duly laden and cleared, to append to entry specified certificate; unless through bill of lading has been filed with collector of customs forwarding said entry, proper bill of lading must be filed with collector of customs at port of transshipment. (T. D. 2505; June 25, 1917.

Upon receipt of entry, collector at port of transshipment will direct officer to examine wines and ascertain whether same agree with entry and to superintend lading of same, or, in case wines are shipped in sealed cars, to examine the seals; duties of inspector on finding the seals intact and also where such seals are found not intact. (T. D. 2505; June 25, 1917.)

All packages or cases containing wines for export must be plainly marked or tagged for identification, and such identifying marks must contain the words "For export," in letters not less than 2 inches in height. (T. D. 2505; June 25, 1917.)

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Wines—Continued.

Where wines entered for export are to be transshipped or are to be shipped in sealed cars through a frontier port, collector of customs with whom entry is filed required, upon inspection and lading of goods, to transmit one copy of said entry, together with copy of transportation manifest, to collector of customs at port of transshipment; he will also note upon entry so transmitted whether through bill of lading has been filed in his office. (T. D. 2505; June 25, 1917.)

In case of shipment of wines free of tax from bonded premises established under section 402 of act of September 8, 1916, to bonded manufacturing warehouse to be manufactured into articles for export, proprietor must execute Form 703, in quadruplicate; on arrival of wines at port of entry manufacturer will report same to collector of customs, who will cause wines to be inspected and gauged and will certify receipt of wines on blue Form 703, returning one blue copy to collector of internal revenue and sending other to commissioner; separate transportation bond covering tax on wines need not be executed; credit given bond (Form 699 or 699A) on receipt of certificate by collector of internal revenue from collector of customs. (T. D. 2738; June 20, 1918.)

Withdrawal of spirits or tobacco.

Where goods entered at one port are to be transshipped at another (outer) port, the withdrawal entry and accompanying bill of lading must be forwarded to collector of customs with whom the export entry is originally filed; article 92 of Regulations No. 29 modified. (T. D. 2510; July 2, 1917.)

Instructions with reference to supplying manufacturers of tobacco, snuff, cigars, and cigarettes with revised Form 550, application for withdrawal for export. (T. D. 2521; Sept. 1, 1917.)

Regulations of October 26, 1917, relative to sale and use of distilled spirits for other than beverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to spirits withdrawn for export. (T. D. 2559; Oct. 26, 1917.)

EXPRESS COMPANIES.

Transportation of property.

See "Transportation"; "Transportation Tax."

EXTRACTS.

Alcohol.

Alcohol tax at rate of $2.20 per gallon, whether produced from materials fermented before or after September 9, 1917, may be used in manufacture of bona fide flavoring extracts, which themselves are not fit for beverage purposes; such flavoring extracts may be subsequently used for flavoring beverages whether alcoholic or not. (T. D. 2567; Oct. 30, 1917.)

Where alcohol is used in the manufacture of flavoring extracts for export, drawback thereon should include both tax of $1.10 per proof gallon and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

Where blanket permits for sale and use of nonbeverage alcohol have been issued, collectors will have complete reexamination made of permits and where found to cover alcoholic compounds or preparations which it is possible to use internally, such as flavoring extracts, they will have thorough investigation made and obtain data required in T. D. 2576, and T. D. 2699; defective permits must be corrected, and where essential, copy of permit in collector's office as well as copy in possession of holder, should be corrected to show exact use to which alcohol is to be put. (T. D. 2699; Apr. 16, 1918.)

Manufacturers of alcoholic preparations which it is possible to use internally, such as flavoring extracts, must, wherever standard process of manufacture is prescribed by Secretary of Agriculture, use such process. (T. D. 2699; Apr. 16, 1918.)

All so-called malt tonics and malt extracts containing in excess of 2 per cent of alcohol by volume and not containing at least 12 per cent of solids due to malt are properly classed as fermented malt liquors, and all existing provisions of internal-revenue law and regulations relating to fermented malt liquors, including sections of law imposing special tax on account of sale thereof, are applicable to such preparations. (T. D. 2727; May 28, 1918.)

Where any preparation containing more than one-half of one per cent of alcohol by volume, whether sold as medicine or flavoring extract or in any other manner, does not conform to required standard, liability will be asserted to tax at beverage rate on alcohol used; similar action will be taken in case of preparation made in

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Alcohol—Continued.

conformity with such standard if sold by a manufacturer for beverage purposes. (T. D. 2760; Oct. 9, 1918.)

When it is desired to use nonbeverage alcohol in making flavoring extract for which no specific standard or process has been prescribed by Secretary of Agriculture, manufacturer must furnish, in duplicate, data required by T. D. 2576 with respect to alcoholic medicinal compounds not conforming to U. S. P. or N. F.; samples of product will be required when doubt exists as to nonbeverage character of same, which samples will be forwarded by express, charges prepaid, to Division of Chemistry, Office of the Commissioner of Internal Revenue. (T. D. 2760; Oct. 9, 1918.)

Persons who manufacture or deal in alcoholic medicinal preparations, flavoring extracts, etc., even though made in accordance with standards prescribed, are only relieved from special tax liability as long as they make sales for legitimate purposes only; if preparation containing more than one-half of one per cent of alcohol by volume is sold for beverage purposes or under circumstances warranting reasonable belief that it is to be used as a beverage, liability to tax will be asserted regardless of what other ingredients preparation may contain. (T. D. 2760; Oct. 9, 1918.)

Persons who use nonbeverage alcohol must first comply with preliminary requirements of laws pertaining to same and regulations issued in pursuance thereof; use of nonbeverage alcohol for manufacture of medicinal preparations, flavoring extracts, etc., is permitted only under same conditions and subject to same restrictions as govern manufacture and sale of same preparations without payment of special tax. (T. D. 2760; Oct. 9, 1918.)

Use of alcohol by manufacturing chemists or flavoring extract manufacturers recovered from dregs or marc of percolation or extraction in any other manner than that prescribed by section 3246, Revised Statutes, as amended by act March 3, 1915, without payment of special tax, will not be permitted. (T. D. 2760; Oct. 9, 1918.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture; if no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Definitions.

An "extract," within the meaning of section 313 (a) of the act of October 3, 1917, is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

A flavoring extract is a solution, in ethyl alcohol of proper strength, of the sapid and odorous principles derived from an aromatic plant or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation. (T. D. 2940; Oct. 29, 1919.)

Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid and contains not less than 1 per cent by volume of oil of bitter almonds. (Id.)

Anise extract is the flavoring extract prepared from oil of anise, and contains not less than 3 per cent by volume of oil of anise. (Id.)

Celery-seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than 0.3 of 1 per cent by volume of oil of celery seed. (Id.)

Cassia extract is the flavoring extract prepared from oil of cassia, and contains not less than 2 per cent by volume of oil of cassia. (Id.)

Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than 2 per cent by volume of oil of cinnamon. (Id.)

Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than 2 per cent by volume of oil of cloves. (Id.)

Lemon extract is the flavoring extract prepared from oil of lemon or from lemon peel, or both, and contains not less than 5 per cent by volume of oil of lemon. Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with diluted alcohol, or by dissolving terpeneless oil of lemon in diluted alcohol, and contains not less than 0.2 of the per cent by weight of citral derived from oil of lemon. (Id.)

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Definitions—Continued.

Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than 2 per cent by volume of oil of nutmeg. (Id.)

Orange extract is the flavoring extract prepared from oil of orange or from orange peel, or both, and contains not less than 5 per cent by volume of oil of orange. Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with diluted alcohol, or by dissolving terpeneless oil of orange in diluted alcohol, and corresponds in flavoring strength to orange extract. (Id.)

Peppermint extract is the flavoring extract prepared from oil of peppermint or from peppermint, or both, and contains not less than 3 per cent by volume of oil of peppermint. (Id.)

Rose extract is the flavoring extract prepared from otto of roses with or without red rose petals, and contains not less than 0.4 of 1 per cent by volume of otto of roses. (Id.)

Savory extract is the flavoring prepared from oil of savory or from savory, or both, and contains not less than 0.35 of 1 per cent by volume of savory. (Id.)

Spearmint extract is the flavoring extract prepared from oil of spearmint or from spearmint, or both, and contains not less than 3 per cent by volume of oil of spearmint. (Id.)

Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than 3 per cent by volume of oil of star anise. (Id.)

Sweet basil extract is the flavoring extract prepared from the oil of sweet basil or from sweet basil, or both, and contains not less than 0.1 of 1 per cent by volume of oil of sweet basil. (Id.)

Sweet marjoram extract is the flavoring extract prepared from the oil of marjoram or from marjoram, or both, and contains not less than 1 per cent by volume of oil of marjoram. (Id.)

Thyme extract is the flavoring extract prepared from oil of thyme or from thyme, or both, and contains not less than 0.2 of 1 per cent by volume of oil of thyme. (Id.)

Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and contains not less than 0.1 of 1 per cent by weight of coumarin extracted from the tonka bean, together with the corresponding proportion of the other soluble matters thereof. (Id.)

Vanilla extract is the flavoring extract prepared from vanilla beans, with or without sugar or glycerin, and contains in 100 cubic centimeters the soluble matter from not less than 10 grams of vanilla beans. (Id.)

Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than 3 per cent by volume of oil of wintergreen. Imitation wintergreen extract or methyl salicylate contains not less than 3 per cent by volume of methyl salicylate. (Id.)

Tincture of Jamaica ginger is held to be a medicinal preparation and must be made according to the United States Pharmacopœia. It is held not to be a flavoring extract. (Id.)

Distilled spirits.

Prohibition against mixing of distilled spirits with wines does not apply to limited use of alcohol in making of fluid extracts from herbs which may be used in manufacture of cordials; quantity or percentage of alcohol permitted in preparation of such extracts for manufacture of cordials must in all cases conform to United States Pharmacopœia. (T. D. 2387; Oct. 30, 1916.)

Tax-paid still wines, domestic and foreign, and tax-paid distilled spirits may be used by rectifiers in the manufacture of vermuths, liqueurs, cordials, and similar compounds and fluid extracts, under stated conditions; bond given by rectifier; marking of containers; notice and records; gauging of products after rectification; marking, branding, and stamping compounds. (T. D. 2403; Nov. 29, 1916.)

The sale or use of medicinal and culinary flavoring extracts made with nonbeverage distilled spirits for beverage purposes or for manufacture into beverages is illegal. (T. D. 2559; Oct. 26, 1917.)

Use of distilled spirits for nonbeverage purposes includes manufacture of bona fide United States Pharmacopœia or National Formulary medicinal, culinary, and flavoring extracts. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Nonbeverage distilled spirits taxable at rate of $2.20 per proof gallon may be used by manufacturers of flavoring extracts where such extracts are unfit for use as a beverage, and such extracts may in turn be used in manufacturing beverages. (T. D. 2566; Oct. 27, 1917.)

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Distilled spirits—Continued.

Distilled spirits used in manufacture of ordinary flavoring extracts are subject only to additional tax of $1.10 per proof gallon imposed by section 303 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Persons subject to tax.

Where concentrates or extracts are sold to be further manufactured into flavoring extracts or sirups, the person completing the manufacture is subject to the tax; where concentrates or extracts are sold to the bottler or the manufacturer of soft drinks, the manufacturer of the concentrates or extracts, is subject to the tax. (T. D. 2570; Nov. 6, 1917.)

Soft drinks.

Tax imposed by section 313 (a) of the act of October 3, 1917, is based on price for which prepared sirups or extracts, if intended for use in manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places, are sold by the manufacturer; possible selling prices and corresponding tax per gallon in each case, stated. (T. D. 2719; Art. XXVIII.)

An "extract," within the meaning of section 313 (a) of the act of October 3, 1917, is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

Foam, concentrates, acid solution, cocoa paste, ginger ale paste and emulsions, and ordinary household extracts like vanilla, are subject to tax imposed by section 313 (a) of act of October 3, 1917, when sold if intended for use in production of soft drinks; extracts intended for use for culinary purposes or in manufacture of ice cream, are not taxable; "Sundae dressings," used exclusively for pouring over ice cream, are not taxable; prepared sirups and extracts used by rectifiers of spirits and as bar flavors are not taxable; an extract sold to another extract or sirup manufacturer for use in producion of prepared sirup which is to be sold as such, is not subject to tax; no tax is imposed upon sirups or extracts, as such, used by the maker for further manufacturing purposes and not sold by him. (T. D. 2719; Art. XXX.)

The tax imposed by section 313 (b) of the act of October 3, 1917, is 1 cent for each gallon of unfermented grape juice, soft drinks, and artificial mineral waters, but carbonated, and fermented liquors containing less than one-half per cent of alcohol, sold by the manufacturer in bottles or other closed containers; tax is none the less payable because tax may have been paid on extracts or prepared sirups entering into manufacture of such soft drinks; manufacturer may be bottler or proprietor of soda fountain. (T. D. 2719; Art. XXXI.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture. If no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Where sirups or extracts taxable under section 313 (a), act of October 3, 1917, are prepared in final marketable form by A, who marks or labels them only with the name or trade-mark of B, who on their being delivered to him sells them without further manufacture to his own customers, if transaction between A and B is an actual sale and not merely employment of A by B to manufacture the articles as his agent at a specified profit, A is the "manufacturer" who is liable for the tax; article 2 of Regulations No. 44 can not be construed as adopting any of the provisions of article 21. (T. D. 2795; Feb. 26, 1919.)

FAIRS.

Agricultural fairs—Capital stock tax.

Provision of article 2, of Regulations 38, exempting agricultural organizations, only applies to those organizations that are engaged in that business merely for the general welfare and benefit of the public, such as agricultural fairs or exhibitions; a corporation engaged in general farming, raising cattle, or the agricultural business for profit is liable to the tax. (T. D. 2417; Dec. 16, 1916. T. D. 2750, Art. 12; Aug. 9, 1918.)

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Agricultural fairs—Continued.

—— Definition.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

Horticultural fairs—Capital stock tax.

Provision of article 2, of Regulations 38, exempting from tax horticultural organizations, only applies to those corporations that are engaged in that business merely for the general welfare and benefit of the public, such as horticultural fairs or exhibitions. (T. D. 2417; Dec. 16, 1916. T. D. 2750, Art. 12, Aug. 9, 1912).

Income taxes—Exemptions.

Agricultural organizations do not include corporations engaged in growing agricultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race-meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

FALSE.

Definition.

The word "false," as used in the fifth subdivision of section 38 of the act of August 5, 1909, means "untrue" or "incorrect," and does not necessarily mean intentionally or fraudulently false. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

FAMILY USE.

Wines.

Exemption from tax on wines produced for family use, under section 402 (b) of act September 8, 1916, does not apply to (a) wines made by one person for use of another, whether consumed on premises or removed therefrom for family use of owner; (b) wines produced by a single person, unless he is the head of a family; (c) wines produced by married man living apart from his family, and not for use of that family; (d) wines made by partnership, or to wines produced at a winery owned and operated by several heads of families jointly; (e) wines furnished ranch hands or boarders. (T. D. 2765; Oct. 21, 1918.)

Each person entitled to and desiring to avail himself of exemption provided by section 402 (b) of act September 8, 1916, must file notice with collector of internal revenue before commencing manufacture of wine; such notice must be on paper 8 by 10½ inches in size and in stated form. (T. D. 2765; Oct. 21, 1918.)

FARMS.

Definition.

The term "farm," as used in instructions governing preparation of income tax returns by farmers, held to embrace farm in the ordinarily accepted sense, and includes plantations, ranches, stock farms, dairy farms, poultry farms, truck farms, and all land used for similar purposes. (T. D. 2665; Mar. 8, 1918.)

FARM LOAN ASSOCIATIONS.

See "Farmers."

FARMERS.

Capital stock tax—Agricultural organizations.

Provision of article 2, of Regulations 38, exempting agricultural or horticultural organizations, only applies to those corporations that are engaged in that business merely for the general welfare and benefit of the public, such as agricultural or horticultural fairs or exhibitions; a corporation engaged in general farming, raising cattle, or the agricultural business for profit, is liable to tax the same as any other corporation. (T. D. 2417; Dec. 16, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

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Capital stock tax—Continued.

—— **Insurance companies.**

Farmers' or other mutual hail, cyclone, or fire insurance company of purely local character, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Mutual ditch or irrigation companies.**

Farmers' or other mutual ditch or irrigation company of purely local character, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Mutual telephone companies.**

Farmers' or other mutual or cooperative telephone company of purely local character, income of which consists solely of assessments, dues, and fees collected from members for purpose of meeting expenses, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **National farm-loan associations.**

National farm-loan associations, as provided in section 26 of the act of July 17, 1916, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Sales associations.**

Farmers', fruit growers', or like associations, organized and operated as sales agent for purpose of marketing products of members and turning back to them proceeds of sales less necessary selling expenses on basis of quantity of produce furnished by them, are exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Definition.

All corporations, partnerships, or individuals who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are farmers for the purposes of instruction governing preparation of income tax returns by farmers. (T. D. 2665; Mar. 8, 1918.)

Persons cultivating or operating farm for recreation or pleasure on basis other than recognized principles of commercial farming, result of which is a continuous loss from year to year, is not regarded as a farmer. (T. D. 2690; art. 4.)

Income taxes—Exemptions.

Interest on securities issued under provisions of Federal farm loan act of July 17, 1916, shall not be included as income. (T. D. 2690; art. 5.)

Agricultural organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, or mutual or cooperative telephone company is specifically exempt from income tax, provided that their entire income consists solely of assessments, dues and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organization has income from any source other than assessments, dues, and fees such income is taxable, and organizations receiving same will be required to make returns. (T. D. 2690; art. 69.)

Farm loan associations organized pursuant to act of July 17, 1916, are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Agricultural or horticultural organizations do not include corporations engaged in growing agricultural or horticultural products or raising live-stock or similar products for profit, but include only those organizations which, having no net income inuring

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Income taxes—Exemptions—Continued.

to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

Farmers', fruit growers', or like association, organized and operated as a sales agent to market products of its members, in order to come within the exemption provided in paragraph "eleventh" of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that, for their own account, they have no net income, and that entire proceeds of marketing products of their members, less necessary selling expenses, are turned back or paid to members on basis of quantity of produce furnished by them—quantity and grade being considered—as purchase price of such produce. (T. D. 2690; art. 75.) See T. D. 2737; June 19, 1918.

—— **Net income.**

Where expenses incurred in operating a farm for recreation or pleasure are in excess of receipts therefrom, entire receipts from sale of products may be ignored in rendering return of income, and expenses will not constitute allowable deductions in return of income derived from other sources. (T. D. 2690; art. 4.)

Under paragraph 7 of section 5 (a) of the act of 1916 there may be claimed a reasonable allowance for depreciation on farm buildings (other than dwelling occupied by owner), farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 4.)

In case of sale total amount received for stock raised and for stock purchased for resale is to be accounted for as income. (T. D. 2690; art. 4.)

Individual engaged in raising and selling stock may not claim as loss value of such animals raised as die; in case of animals purchased, which die, amount of purchase money will be an allowable deduction, if not previously deducted as business expense. (T. D. 2690; art. 4.)

When farm products are held for favorable market prices, no deduction on account of shrinkage in weight or physical value, or losses by reason of such shrinkage or deterioration in storage shall be allowed. (T. D. 2690; art. 4.)

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools of short life or insignificant cost, such as hand tools, including shovels, rakes, etc., may be included under this item. (T. D. 2690; arts. 4, 123.)

Money expended for stock for breeding purposes is regarded as capital invested, and where stock dies from disease or injury or is killed by order of authorities of State or United States and cost thereof has not been claimed as item of expense, amounts so expended, less any depreciation which may have been previously claimed, may be deducted as a loss; if reimbursement is made by State or United States, anount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; arts. 4, 123.)

If, in case of farmers', fruit growers', or like association, organized and operated as as sales agent to market products of its members, amounts paid to members are based solely upon quantity of produce furnished, such amounts may be deducted from gross proceeds of sale, and taxable net income will be amount of earnings passed to surplus, or distributable among members on basis of their stock holdings. (T. D. 2690; art. 75.)

There may be claimed a reasonable allowance for depreciation on farm buildings, farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 123.)

Corporations engaged in operating plantations, ranches, stock farms, poultry farms, and lands used for raising fruit, truck, etc., including orchards of all kinds,

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Income taxes—Continued.

—— **Net income**—Continued.

shall make their returns on the basis of the products actually marketed and sold during the year, whether such products were produced or purchased and resold. (T. D. 2690; art. 123.)

In determining cost of stock for purpose of ascertaining deductible loss there shall be taken into account only the purchase price and not the cost of any feed, pasturage, or care which has been deducted as an expense of operations. (T. D. 2690; art. 123.)

Cost of live stock purchased for resale by corporation engaged in operating plantations, stock farms, etc., is an allowable deduction under item of expense. (T. D. 2690; art. 123.) But see T. D. 2665.

All deductions by corporations engaged in operating plantations, ranches, etc., shall be based upon legitimate expense incident to current year whether for production of present or future years, except that in case wherein corporation is engaged in producing crops which take more than a year from time of planting to process of gathering and disposing, income reported and expenses deducted should be determined upon crop basis. (T. D. 2690; art. 123.) But see T. D. 2665.

—— **Returns—Accounts.**

Farmers who keep books according to some approved method of accounting, which clearly shows net income, and take annual inventories, may prepare returns in accordance with showing made by such books and inventories; ascertainment of gross income where inventory method is adopted by farmer. (T. D. 2665; Mar. 8, 1918.)

—— —— **Deductions.**

Amount expended in purchasing stock for resale is an investment of capital and is not to be taken as an item of expense for year in which stock was purchased or for any subsequent year, but when stock so purchased is sold its cost is to be deducted from sales price in ascertaining amount of gain or profit returnable for tax purposes; where cost of stock or farm products purchased in 1916 or any previous year for resale has been claimed as a deduction, and such stock or farm products were sold during 1917, entire proceeds are to be returned as income for year in which sale was made. (T. D. 2665; Mar. 8, 1918.)

All items of expense connected with the planting, cultivating, harvesting, and marketing of a crop, or the care, feeding, and marketing of live stock, may be claimed as deductions only in the return rendered for the year during which such expenditures were made; this applies even though crop or stock may not have been sold or exchanged for money or money equivalent during year for which return is rendered. (T. D. 2665; Mar. 8, 1918.)

Rents received in crop shares must be returned as of year in which shares are reduced to money or money equivalent, and allowable deductions must be claimed in return of income for tax year in which they apply, although expenses and deductions may be incident to products which remain unsold at end of year. (T. D. 2690; art. 4.)

—— —— **Exchange of produce for merchandise.**

Where farmer exchanges farm produce for merchandise, groceries, or mill products, the market value of the article or product received in exchange is to be returned as income. (T. D. 2665; Mar. 8, 1918.)

—— —— **Inventories.**

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock and products on hand at the close of the year, and then deduct amount expended in purchasing live stock and products plus inventory of live stock and products at beginning of year; no deduction can be made for stock or products lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase or age or other causes; cost price of articles sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

—— —— **Produce consumed by family.**

A farmer is not required to include in his income-tax return the value of farm produce consumed by himself and family. (T. D. 2665; Mar. 8, 1918.)

Farmers who do not keep books of account and ascertain their gross income by inventory should prepare returns of annual net income on basis of actual receipts

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Income taxes—Continued.

—— **Returns**—Continued.

—— —— **Receipts and disbursements.**

and disbursements in order that returns may be susceptible of audit for purposes of verification. (T. D. 2665; Mar. 8, 1918.).

—— —— **Sales agents.**

If, in course of their business, farmers', fruit growers', or like association, organized and operated as sales agents to market products of its members, purchase for cash at a stipulated price articles of produce with view of selling them for gain, they will be required to make returns of annual net income and include therein, for purpose of tax, all income derived from such transactions. (T. D. 2690; art. 75.)

Periodical refunds made by cooperative societies in accordance with by-laws or published rules are to be regarded as discounts or rebates, tending to reduce the taxable net income of the organizations, and they should appear as an added item of cost in the detailed schedule of cost items submitted with the organization's return of income. (T. D. 2737; June 19, 1918.)

—— —— **Time as of which made.**

All gains, profits, and income derived from sale or exchange of farm products, whether produced on the farm or purchased and resold by the farmer, shall be included in the return of income for year in which products were actually marketed and sold. (T. D. 2665; Mar. 8, 1918.)

FEDERAL FARM LOANS.

Interest on securities—Income tax.

Interest on securities issued under provisions of Federal farm loan act of July 17, 1916, shall not be included as income. (T. D. 2690. art. 5.)

FEDERAL LAND BANKS.

Capital stock tax.

Federal land banks, as provided in section 26 of act of July 17, 1916, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Tax does not apply to joint-stock land banks as to income derived from bonds or debentures of other joint-stock land banks or Federal land bank belonging to such joint-stock land bank. (T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemptions.

Federal land banks are exempted from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

FEDERAL RESERVE BANKS.

Income taxes—Exemptions.

Exemption provided for in Federal reserve statute, section 3, of the act of October 22, 1914, attaches to and follows income derived from dividends on stock of Federal reserve banks into hands of stockholders, that is to say, dividends received on stock of such banks are exempt from taxes imposed by acts of September 8, 1916, as amended, and of October 3, 1917; this ruling does not contemplate that dividends paid by member banks are exempt from the 2 per cent tax, but such dividends, in so far as they may be received by other corporations, may be treated as a credit against net income in computing the war income tax imposed by Title I of the act of October 3, 1917. (T. D. 2690; art. 86.)

FEDERAL RESERVE BOARD.

Bankers' acceptances—Stamp taxes.

The rule that the stamp tax on drafts and checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to bankers' acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

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Trade acceptances—Stamp taxes.

The rule that the stamp tax on drafts and checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to trade acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

FEES.

Income taxes—Claim.

Collectors are authorized to pay clerk of court his legal fees for certificates furnished by him relative to litigated taxes, and will be credited in their expense accounts for amounts so paid on filing therewith vouchers covering expenses thus incurred. (T. D. 2690; art. 255.)

Membership.

See "Dues."

FERMENTED LIQUORS.

Act published.

Extract from act of September 8, 1916, relating to tax on fermented liquors, published for information of internal-revenue officers and others concerned. (T. D. 2365; Sept. 11, 1916.)

Alaska.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Alcoholic content.

Alcoholic content of fermented malt liquor produced in United States (except ale and porter) must in no case exceed 2¾ per cent of alcohol by weight. (T. D. 2618; Dec. 21, 1917.)

All so-called malt tonics and malt extracts containing in excess of 2 per cent of alcohol by volume and not containing at least 12 per cent of solids due to malt are properly classed as fermented malt liquors, and all existing provisions of internal-revenue law and regulations relating to fermented malt liquors, including section of law imposing special tax on account of sale thereof, are applicable to such preparations. (T. D. 2717; May 28, 1918.)

Analysis.

Officers having reason to suspect that contents of package sent out from brewery premises have alcoholic content exceeding 2¾ per cent instructed to forward sample for analysis, after having dissolved in sample 5-grain tablet of bichloride of mercury; label to be specifically marked "Poison." (T. D. 2618; Dec. 21,1917.)

Bonds.

Execution of new bonds required wherever specific acts of Congress or rates of taxation necessitate such bonds. (T. D. 2525; Sept. 24, 1917.)

Carbonated beverages.

Carbonated fermented liquors containing less than one-half per cent of alcohol are to be classed as carbonated beverages and not as fermented liquors within meaning of section 313 (b) of the act of October 3, 1917, and are accordingly not directly taxed unless manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating them. (T. D. 2719; Art. XXXI.)

Carbonic acid gas.

Carbonic acid gas used in manufacture of ale is taxable. (T. D. 2598; Nov. 24, 1917.)

Tax imposed by section 315 of the act of October 3, 1917, is 5 cents for each pound of carbonic acid gas in drums or containers sold by the manufacturer, if intended for use in the manufacture or production of carbonated water or drinks, including fermented liquors containing less than one-half per cent of alcohol; carbonic acid gas used in drawing beer from containers or in operation of refrigerating plants, or in

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Carbonic acid gas—Continued.

preserving food products, or in manufacture of beverages containing one-half per cent or more of alcohol, is not subject to the tax; in all cases of sales of carbonic acid gas for use other than in the manufacture of carbonated water or other drinks, manufacturer must prominently stamp on or affix to container a warning, as follows: "Federal tax not paid. Unlawful to use in the manufacture of beverages." (T. D. 2719; Art. XXXV.)

Cisterns.

Temporary regulation providing that until further notice brewers having established pipe line for transfer of fermented liquors may set aside and utilize one or more cisterns pertaining thereto for containing liquors containing not to exceed one-half of 1 per cent of alcohol by volume for transfer through the pipe line for sole purpose of bottling, under certain conditions and restrictions; duties of deputy collector in attendance. (T. D. 2359; Sept. 9, 1916.)

Regulation as to construction of measuring cisterns for determination of quantity of taxable materials transferred from brewery to contiguous industrial distillery, such cisterns to be used also as charge tanks for distillery, to enable collector to make prescribed survey. (T. D. 2564; Oct. 26, 1917.)

Floor tax.

All vermuths, cordials, and other compounds, in which distilled spirits exclusively have not been used, but which contain spirits produced by fermentation, and those produced by distillation, will be considered as having 15 per cent alcohol by volume produced by natural fermentation, and additional tax of $2.10 per proof gallon will be due only on alcoholic content in excess of 15 per cent; where vermuths, cordials, and other compounds are manufactured with mixtures of wines and spirits, additional tax will be due only on distilled spirits contained therein and not on spirits contained in fermented wines used. (T. D. 2579; Nov. 5, 1917.)

Malt liquors—Conservation of food or feed materials.

Brewers producing fermented malt liquors on and after January 1, 1918, must conserve from residue the animal feed; instructions with reference to conservation of slops; penalty for violation of ruling. (T. D. 2618; Dec. 21, 1917.)

Grain or other food or feed material used in production of fermented malt liquors for any quarter limited to 70 per cent of amount of grain, etc., used in production of such liquor during corresponding quarter for calendar year 1917; rules as to breweries not in operation during corresponding quarter of year 1917, and breweries never operating during corresponding quarter, and where there has been a succession to business conducted on same brewery premises, and where two or more breweries effect bona fide consolidation of business for purpose of economy. (T. D. 2618; Dec. 21, 1917.)

Brewers intending to produce fermented malt liquor on and after January 1, 1918, required to apply for license to operate under food-control act of October 10, 1917; contents and form of application; issuance and posting of license. (T. D. 2618; Dec. 21, 1917.)

Executive order, dated September 16, 1918, and regulations promulgated by the President under date of September 30, 1918, covering production of malt liquors and the alcoholic content thereof, published for information of revenue officers and others concerned. (T. D. 2768; Nov. 2, 1918.)

If at any time the President's proclamation of September 16, 1918, providing that on and after December 1, 1918, no person shall use any sugar, glucose, corn or rice, or any other foods, fruits, food materials or feeds, including malt, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol, becomes inoperative as to near beer, brewers may resume the manufacture thereof prior to May 1, 1919, where the alcoholic content during the process of manufacture exceeds one-half of 1 per cent by volume, but does not exceed 2¾ per cent by weight, on the brewery premises, provided the alcoholic content at the time of removal for sale and consumption does not exceed the limit of less than one-half of 1 per cent of alcohol by volume. (T. D. 2788; Feb. 6, 1919.)

Within the intent of the act of November 21, 1918, a beverage containing one-half of 1 per cent or more of alcohol by volume will be regarded as intoxicating. (T. D. 2788; Feb. 6, 1919.)

Where, in the process of manufacture of a so-called near beer the alcoholic content of the fermented wort is always kept at less than one-half of 1 per cent of alcohol by

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Malt liquors—Conservation of food or feed materials—Continued.

volume, and the product is so marketed in sterile containers or otherwise that the alcoholic content at no time before consumption will be increased to one-half of 1 per cent by volume or more, the manufacturer thereof will not be regarded as a distiller or as a brewer, and special tax liability for its manufacture and sale will not be incurred, but the manufacturer will be required to file a modified notice, Form 27c, as set forth in Mim. No. 1926. (T. D. 2788; Feb. 6, 1919.)

After May 1, 1919, persons will not be permitted to qualify as brewers where the alcoholic content of their product at any time during the process of manufacture equals or exceeds one-half of 1 per cent by volume, regardless of the alcoholic content when removed for consumption or sale. After that date, when brewers will not be permitted to qualify as such by reason of the act of November 21, 1918, for the manufacture of either beer or near beer, it will be necessary for manufacturers desiring to produce near beer exceeding one-half of 1 per cent of alcohol by volume at any stage of its manufacture to qualify as industrial distillers under the act of October 3, 1913, and regulations made in pursuance thereof, subject to the so-called "spoiled corn" order while the same remains in effect. (T. D. 2788; Feb. 6, 1919.)

Manufacturers of near beer, regardless of the method of production, are charged with the duty of seeing that the product is less than one-half of 1 per cent of alcohol by volume and always so remains until it is consumed; it should be marketed in glass bottles or other sterile containers, after pasteurization or otherwise destroying the yeast, where the same contains fermentable matter when marketed; unless this product is thus marketed, the barrel tax and all special taxes will be asserted, and prosecution instituted, if the product is found on the market containing one-half of 1 per cent or more of alcohol by volume. All containers of near beer must bear a label indicating the character of the contents and showing clearly the name of the manufacturer and the location of his factory, the district and State in which made. (T. D. 2788; Feb. 6, 1919.)

Any violation of the law or regulations which is a violation of the act of August 10, 1917, or the act of November 21, 1918, can not be made the subject of compromise by the Commissioner of Internal Revenue under section 3229, Revised Statutes, which section is applicable to offenses arising under the internal-revenue laws only. (T. D. 2788; Feb. 6, 1919.)

Internal-revenue storekeeper-gaugers and storekeeper-gaugers assigned as gaugers will be guided by the acts of August 10, 1917, and November 21, 1918, and the regulations and rulings thereunder, and will not permit the use in the production of beverage spirits or wines of any material held to be foods, fruits, food materials, or feed. (T. D. 2788; Feb. 6, 1919.)

Storekeeper-gaugers, storekeeper-gaugers assigned as gaugers, and deputy collectors will report to their immediate superiors and revenue agents and collectors will report to the Commissioner of Internal Revenue violations of the law and regulations. (T. D. 2788; Feb. 6, 1919.)

The words "grains, cereals, fruit, or other food product" appearing in the act of November 21, 1918, apply to the same products referred to in the act of August 10, 1917, as "foods, fruits, food materials or feeds." (T. D. 2788; Feb. 6, 1919.)

—— Denatured alcohol.

Fermented malt liquor may be conveyed by pipe line without tax payment from brewery premises where produced to contiguous industrial distillery of either class established under act of October 3, 1913, there to be used as distilling material, where the brewery premises and the industrial distillery premises are separate and distinct, and for which requisite notices and bonds shall have been given; must be complete separation by substantial unbroken partitions between brewery and distillery from cellar to roof where they are in same building or separate buildings immediately adjoining. (T. D. 2564; Oct. 26, 1917.)

Supervision over removal of taxable fermented liquor from brewery to distillery and over operation of distillery and denaturation of product will be exercised by pipe-line deputy where one is on duty, or in cases where there is no such deputy or he is unable to perform required duties, a storekeeper-gauger will be assigned in the usual manner to the distillery, with compensation not less than $3 nor more than $4 per day. (T. D. 2564; Oct. 26, 1917.)

—— Residue from distilleries.

Residue from industrial distilleries containing less than one-half of 1 per cent of alcohol by volume, used in making nontaxable beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises

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Malt liquors—Continued.

—— **Residue from distilleries**—Continued.

or on the brewery premises, or transferred from distillery premises to other premises for bottling by means of unstamped packages unlike those ordinarily used for containing fermented liquor, or if like packages are used both heads to be equipped in solid color with certain lettering. (T. D. 2564; Oct. 26, 1917.)

Residue from industrial distilleries containing less than one-half of 1 per cent of alcohol by volume may be transferred to other premises for bottling or otherwise by way of separate pipe-line, which may be connected on bottling premises with tank or with the filling machine commonly used for bottling fermented liquors received from brewery premises; such pipes must be open to inspection throughout their entire lengths. (T. D. 2564; Oct. 26, 1917.)

—— **Returns and reports of breweries.**

Form 18, as revised, required to be used to exclusion of all former editions on and after July 1, 1917, at which date forms of former edition should be destroyed; contents of forms stated; commencing with July 1, 1917, collector's copy of Form 18 required to be filed in loose-leaf binder, alphabetically, by name of brewer, thus constituting an original record of each month's transactions for each brewer, and taking place of record 20, keeping of which on and after July 1, 1917, was discontinued. (T. D. 2471; Apr. 2, 1917.)

Liquors will be reported as produced by the brewer and so entered on his record (Form 104) and return (Form 18), forming part of the general product of the brewery; credit will be taken on such record and return for quantity removed as distilling material, same not to be subject to beer tax; distillery to take up material received on record book 606 and abstract thereof to be sent monthly to collector. (T. D. 2564; Oct. 26, 1917.)

Refund or abatement of tax.

Provisions of T. D. 2688 do not govern in case of claims for refund or abatement of taxes on distilled spirits, fermented liquors, and wines. (T. D. 2926; Sept. 29, 1919.)

Samples.

Instructions relative to taking samples at brewery, on premises of dealers, at vinegar factories, etc., and assessments for taxes where cereal beverages contain or are suspected of containing one-half of 1 per cent or more of alcohol by volume. (T. D. 2921; Sept. 15, 1919.)

Stamp orders.

Form 7, as revised, required to be used to exclusion of all former editions on and after July 1, 1917, at which date all forms of former editions required to be destroyed; revised Form 7 required to be filed in check-size drawers behind guide cards bearing name of each brewer, forming original record of orders for stamps and taking place of record 19; two sets of guides to be used, providing current and closed file. (T. D. 2471; Apr. 2, 1917.)

Temperance beer.

Metal packages, whisky or vinegar barrels, or remodeled beer packages differing in size and shape from the regular statutory packages for containing fermented liquors may be employed to contain temperance beer; regular beer cooperage may be used under certain conditions. (T. D. 2410; Dec. 8, 1916.)

Responsibility of brewers, manufacturers of beverages, and dealers who place or market unstamped beverages found to contain more than one-half of 1 per cent of alcohol by volume, stated; duty of revenue agents having reason to suspect that such beverages are placed on market without payment of tax. (T. D. 2370; Sept. 18, 1916.)

If at any time the President's proclamation of September 16, 1918, providing that on and after December 1, 1918, no person shall use any sugar, glucose, corn or rice, or any other foods, fruits, food materials or feeds, including malt, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol, becomes inoperative as to near beer, brewers may resume the manufacture thereof prior to May 1, 1919, where the alcoholic content during the process of manufacture exceeds one-half of 1 per cent by volume, but does not exceed 2¾ per cent by weight, on the brewery premises, provided the alcoholic content at the time of removal for sale and consumption does not exceed the limit of less than one-half of 1 per cent of alcohol by volume. (T. D. 2788; Feb. 6, 1919.)

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Temperance beer—Continued.

After May 1, 1919, persons will not be permitted to qualify as brewers where the alcoholic content of their product at any time during the process of manufacture equals or exceeds one-half of 1 per cent by volume, regardless of the alcoholic content when removed for consumption or sale. After that date, when brewers will not be permitted to qualify as such by reason of the act of November 21, 1918, for the manufacture of either beer or near beer, it will be necessary for manufacturers desiring to produce near beer exceeding one-half of 1 per cent of alcohol by volume at any stage of its manufacture to qualify as industrial distillers under the act of October 3, 1913, and the regulations made in pursuance thereof, subject to the so-called "spoiled corn" order while the same remains in effect. (T. D. 2788; Feb. 6, 1919.)

Manufacturers of near beer, regardless of the method of production, are charged with the duty of seeing that the product is less than one-half of 1 per cent of alcohol by volume and always so remains until it is consumed; it should be marketed in glass bottles or other sterile containers, after pasteurization or otherwise destroying the yeast, where the same contains fermentable matter when marketed; unless this product is thus marketed, the barrel tax and all special taxes will be asserted, and prosecution instituted, if the product is found on the market containing one-half of 1 per cent or more of alcohol by volume. All containers of near beer must bear a label indicating the character of the contents and showing clearly the name of the manufacturer and the location of his factory, the district and State in which made. (T. D. 2788; Feb. 6, 1919.)

Where, in the process of manufacture of a so-called near beer, the alcoholic content of the fermented wort is always kept at less than one-half of 1 per cent of alcohol by volume, and the product is so marketed in sterile containers or otherwise that the alcoholic content at no time before consumption will be increased to one-half of 1 per cent by volume or more, the manufacturer thereof will not be regarded as a distiller or as a brewer, and special tax liability for its manufacture and sale will not be incurred, but the manufacturer will be required to file a modified notice, Form 27c, as set forth in Mim. No. 1926. (T. D. 2788; Feb. 6, 1919.)

Time taxes effective.

War revenue taxes on fermented liquors removed from place of production or storage took effect on and after morning of October 4, 1917. (T. D. 2547; Oct. 22, 1917.)

FIDELITY INSURANCE.

See "Insurance."

FIDUCIARIES.

Definition.

"Fiduciary" is a term which applies to all persons or corporations that occupy positions of peculiar confidence towards others, such as trustees, executors, or administrators; fiduciary for income-tax purposes is any person or corporation that holds in trust an estate of another person or persons; there may be fiduciary relationship between an agent and a principal, but the word "agent" does not denote a "fiduciary" within meaning of income-tax law. (T. D. 2690; art. 29.)

Estate tax.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by fiduciaries holding property of any kind, jointly or in entirety, for decedent and another or others. (T. D. 2454; Feb. 28, 1917.)

Income taxes—Collection and payment.

Liability for tax due from deceased person or from his estate attaches to estate itself, and when by reason of distribution of estate and discharge of executor or administrator it shall appear that collection of tax can not be made from executor or administrator, collector will make demand on distributees for their proportionate share of tax due and unpaid. (T. D. 2690; art. 29.)

Administrators or executors should pay tax found by return for calendar year in which administration was closed to be due immediately upon receipt of notice and demand for payment of such tax. (T. D. 2690; art. 26.)

Liability for payment of income tax attaches to the person of an executor or administrator up to and including date of discharge regardless of fact that time in which claim is made and filed against estate has expired or where, prior to distribution and discharge, executor or administrator had notice of obligations to Federal Government, or where he failed to exercise due diligence in determining whether or not such obligations existed. (T. D. 2690; art. 29.)

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Income taxes—Continued.

—— **Exemptions.**

Fiduciaries acting for minors or incompetent persons are permitted to take personal exemption as to income derived from property of which they have charge in favor of each ward or beneficiary. (T. D. 2690; art. 14.)

Where person having taxable income dies within calendar year, his personal representatives in making return for him may claim full exemption granted by statutes for calendar year. (T. D. 2690; art. 14.)

Where husband or wife having taxable income dies within calendar year, and full exemption for yar is used by personal representative in making return, if survivor is also required to make return at cloe of yeear for income received within that year, the full personal exemption, according to marital status of survivor at close of year, may be claimed in return of income. (T. D. 2690; art. 14.)

—— **Gross income.**

A deed of trust must be absolute so far as the conveyance of title is concerned and irrevocable by the donor, otherwise income from property in question will accrue to donor and must be accounted for by him. (T. D. 2690; art. 29.)

Income accumulated in trust for unascertained persons or persons with contingent interests is income accruing to the estate and is taxable to the estate. (T. D. 2690; art. 20.)

Stock dividends paid from earnings or profits accumulated after March 1, 1913, received by fiduciary and retained as an accretion to the estate, under the terms of the will or trust, are held to be income to the estate and taxable as such to the estate. (T. D. 2690; art 29.)

Where, during period of administration, executor converts estate into money to settle estate and close administration, realizing a profit which with other income exceeds $1,000, return should be made covering period of administration, in which should be included all gains, profits, and income during such period. (T. D. 2690; art. 29.)

Proceeds of life insurance policies payable to estate of decedent, when received by executor or administrator are, in amount by which they exceed the premium or premiums paid by decedent, income of the estate to be accounted for under section 2 (b) of the act of September 8, 1916; return should be made on Form 1040 or 1040A. (T. D. 2690; art. 29.)

—— **Net income.**

Expenses of administration of estate, such as executor's commissions, etc., are chargeable against corpus of estate and are not allowable deductions. (T. D. 2690; art. 8.)

—— **Returns.**

Where net income of decedent from January 1 to date within year was $1,000 or over, if unmarried, or $2,000 or over, if married, return must be made by executor or administrator, who may claim all deductions and exemptions to which decedent would have been entitled; executors and administrators whose duty consists of administering on estate for purposes of its distribution stand, during period of administration, instead of their principal, and must make returns of income for estate, and pay tax due. (T. D. 2690; art. 4.)

The exception to the rule that returns of individuals can not be accepted prior to close of calendar year, in cases of closed administration, is matter of convenience to those concerned, and is granted by reason of fact that period to be covered by return has completely elapsed. (T. D. 2690; art. 26.)

An executor acts for his principal and not for the beneficiaries of the estate of his principal, and beneficiaries are not entitled, as such, to inspect returns filed by such executor. (T. D. 2690; art. 26.)

Ancillary administrator is merely an agent of the domiciliary administrator and should transmit to him all information as to income of estate received by ancillary administrator, so that original administrator may make return covering entire income of estate. (T. D. 2690; art. 26.)

Administrators or executors may, upon final accounting, file return for income of estate for calendar year in which administration was closed, attaching thereto copy of certificate, under seal, setting forth fact of final accounting and discharge liability for return is fixed as of December 31, and return will be required in accordance with provisions of law existing on that date. (T. D. 2690; art. 26.)

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended,

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Income taxes—Continued.

—— **Returns**—Continued.

when income of estate or trust, as an entity, is $1,000 or over, such return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

Where beneficiary is nonresident alien individual, tax is to be accounted for by fiduciary on return of income for such nonresident alien beneficiary, on Income Tax Form 1040 or 1040A, as case may be. (T. D. 2690; art. 28.)

Income held for future distribution under terms of will or trust is taxable to the estate except when returned by the beneficiary for the purpose of the tax. (T. D. 2690; art. 29.)

All amounts paid by fiduciaries to beneficiaries of trust estates from income of such estates, whether from receipts or otherwise, are held to be distributions of income and will be treated for income-tax purposes in accordance with provisions of law and regulations applicable to income of such beneficiaries. (T. D. 2690; art. 29.)

Fiduciary acting for beneficiary in more than one estate or trust is required to account for each estate separately when amounts are such as to require filing of a return, and also a return information; fiduciary acting for minor or insane person having net income of $1,000 or $2,000, according to marital status of such person, required also to file return for such incompetent on Form 1040 and 1040A, and pay tax found to be due, when there is more than one beneficiary of the income of the same trust. (T. D. 2690; art. 29.)

Beneficiary will be required in case of trust estate to account for actual amounts distributed or credited to him. (T. D. 2690; art. 29.)

Where fiduciary in United States is recipient of trust income for which a nonresident alien is the sole beneficiary, fiduciary required to make full and complete return on Form 1040 or 1040A, as case may be, for such income on behalf of nonresident alien, and pay any and all normal tax found by such return to be due, and any and all surtax, provided the income is not returned for the purpose of the tax by the beneficiary; where there are two or more beneficiaries, one or all of whom are nonresident aliens, fiduciary shall render return on Form 1041, and personal return on Form 1040 or 1040A, for each nonresident alien beneficiary. (T. D. 2690, art. 29, as amended by T. D. 2988; Mar. 3, 1920.)

Where income under the provisions of section 2 (b) of the act of September 8, 1916, is accounted for in return by the executor, administrator, or trustee, and the tax shall have been assessed and paid, income is therefore freed of all tax liability; return on Form 1040 or 1040A, subject to all deductions and exemptions, shall be made by executor or administrator for estate during period of administration, and entire tax paid thereon. (T. D. 2690; art. 29.)

Where, in case of more than one trust, creator in each instance is same person, and trustee in each instance is the same, trustee should make single return on Form 1041 for all trusts in his hands, notwithstanding fact that they arise from different instruments; when trusts are created by different persons for benefit of same beneficiary, trustee should make return for each trust separately on Form 1041. (T. D. 2690; art. 29.)

All fiduciaries are indemnified against claims or demands of their beneficiary for all payments of taxes which they shall be required to make, and they shall be credited for such payments in any accounting which they make as such fiduciaries. (T. D. 2690; art. 29.)

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority conferred by power of attorney, is not a fiduciary within the income tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney liability under the law rests with the principal. (T. D. 2690; art. 29.)

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed

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Income taxes—Continued.

—— **Returns**—Continued.

guardian, and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

Fiduciary making return shall make oath that he has sufficient knowledge of affairs of person, trust, or estate for whom or which he acts to enable him to make return, and that same is to best of his knowledge and belief true and correct. (T. D. 2690; art. 29.)

Where fiduciary in United States is recipient of trust income for which a nonresident alien is the sole beneficiary, fiduciary required to make full and complete return on Form 1040 or 1040A, as case may be, for such income on behalf of nonresident alien; where there are two or more beneficiaries, one or all of whom are nonresident aliens, fiduciary shall render return on Form 141, and personal return on Form 1040 or 1040A, for each nonresident alien beneficiary. (T. D. 2690; art. 29.)

Return by one of two or more joint fiduciaries in form prescribed, filed in district in which such fiduciary resides, shall be sufficient compliance with requirement for fiduciary return. (T. D. 2690; art. 29.)

Committee of property of incompetent person hel d to be fiduciary for purpose of income tax and required to make return on Form 1040, revised, for incompetent whenever amount of income is sufficient to require same. (T. D. 2690; art. 29.)

Where terms of will or trust or decree of court provide for keeping corpus of trust estate intact and where physical property has suffered depreciation through its employment in business, deduction from gross income to care for this depreciation, where deduction is applied or held by fiduciary for making good such depreciation, may be claimed by fiduciary in his return; contents of return. (T. D. 2690; art. 29.)

—— —— **Inspection.**

Return of individual is open to inspection by administrator, executor, or trustee of taxpayer's estate, or by duly constituted attorney in fact of such administrator, executor, or trustee, where maker of return has died; and, in discretion of Commissioner, by one of the heirs at law or next of kin of deceased person upon showing that he has a material interest which will be affected by information contained in the return. (T. D. 2961; Jan. 7, 1920.)

Original income return or copy thereof may be furnished by Commissioner to United States attorney for use as evidence before United States grand jury or in litigation in any court where the United States is interested in the result, or for use in preparation for such litigation, or to attorney connected with Department of Justice designated by Attorney General to handle such matters, if and when Attorney General states to Commissioner in writing that such attorney is so designated; return or copy thereof thus furnished must be limited in use to purpose for which furnished, and is under no conditions to be made public except where publicity necessarily results from such use; where original return is necessary, it shall be placed in evidence by the Commissioner or by some officer or employee of the Bureau designated by the Commissioner for that purpose, and after being placed in evidence it shall be returned to files in office of Commissioner in Washington; original return will be furnished only in exceptional cases, and then only when it is made to appear that ends of justice may otherwise be defeated; neither the original nor a copy desired for use in litigation where United States Government is not interested and where such use might result in making public the information contained therein will be furnished, except as otherwise provided in the next succeeding paragraph. (T. D. 2962; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

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FILMS.

See "Moving Pictures."

FIRE INSURANCE.

See "Insurance."

FISCAL AGENTS.

See "Principal and Agent."

FISCAL YEAR.

Returns on basis of.

See specific heads.

FISHING CLUBS.

Dues.

See "Dues."

FLAVORING EXTRACTS.

See "Extracts."

FLOOR TAXES.

Alcohol.

Alcohol held on October 3, 1917, by manufacturers of proprietary medicines for use in manufacture of medicines is subject to floor tax, unless on day act of October 3, 1917, took effect, it was in process of manufacture and had been rendered unfit for beverage purposes. (T. D. 2547; Oct. 22, 1917.) But see T. D. 2643; Jan. 28, 1918.

Alcoholic compounds.

Tax of 15 cents per proof gallon required on all compounds in possession of rectifier on October 4, 1917, or thereafter produced, and additional floor tax on product must be paid after inventory and return in same manner as floor tax on distilled spirits. (T. D. 2536; Oct. 13, 1917.)

Automobile dealers.

Dealers in automobiles who sell both to users and subagents for resale are wholesalers within the meaning of section 602 of the act of October 3, 1917, and are liable to floor tax imposed by said section. (T. D. 2577; Nov. 13, 1917.)

Beverages.

No floor tax was imposed by act of October 3, 1917, upon sirups in hands of wholesalers or jobbers on October 4, 1917. (T. D. 2598; Nov. 24, 1917.)

Distilled spirits.

All distilled spirits in possession of manufacturing chemists, pharmacists, or any other person held for sale, although not for sale as distilled spirits on October 4, 1917, are subject to additional floor tax at $1.10 or $2.10 per proof gallon as case may be; distilled spirits in possession of manufacturers on October 4, 1917, which, in legitimate processes of manufacture, had been rendered unfit for use as beverages, are not subject to additional floor tax. (T. D. 2566; Oct. 27, 1917.) But see T. D. 2643; Jan. 28, 1918.

All vermuths, and other compounds made exclusively from distilled spirits are subject to so-called floor tax of $2.10 additional on each proof gallon or fraction of a gallon of full alcoholic content thereof; where, however, such compounds are manufactured with mixture of wine and spirits, additional tax of $2.10 per proof gallon will be due only on distilled spirits contained therein, and not on the spirits contained in the fermented wines used. (T. D. 2579; Nov. 5, 1917.)

All vermuths, cordials, and other compounds, in which distilled spirits exclusively have not been used, but which contain spirits produced by fermentation, and those produced by distillation, will be considered as having 15 per cent alcohol by volume produced by natural fermentation, and additional tax of $2.10 per proof gallon will be due only on alcoholic content in excess of 15 per cent. (T. D. 2579; Nov. 5, 1917.)

All notices required to perfect lien against parties liable to tax should be issued promptly, including notice on Form 668, which should be filed in office of proper clerk of United States District Court, or in office of proper registrar, or recorder of deeds, where State law authorizes such filing; notice should always be filed in doubtful cases where large sums are involved as soon as practicable, and collector is of opinion that such action is necessary to protect interests of Government. (T. D. 2643; Jan. 28, 1918.)

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Distilled spirits—Continued.

Section 303, revenue act of 1917, imposing floor taxes on distilled spirits, applies to distilled spirits held on board American ships and intended for sale, whether the vessel on which they were held was at dock in this country, on the high seas, or in foreign waters. (T. D. 3098; Dec. 7, 1920.)

Ownership of goods.

Goods shipped and invoiced prior to October 4, 1917, are property of consignee, and if shipped to wholesaler are subject to floor tax; if, however, title is reserved in manufacturer he is subject to manufacturer's tax and wholesaler is relieved from floor tax. (T. D. 2547; Oct. 22, 1917.)

Under section 1003 of act October 3, 1917, tax on spirits in hands of bankruptcy court June 1, 1917, shall be collected from purchaser thereof by trustees in bankruptcy or their agent, and quantity sold and amount of tax collected during any calendar month shall be reported to collector of district in which sales are made not later than 10th day of month succeeding, which report shall be transmitted to Commissioner's office, whereupon assessment will be made and tax collected in ordinary course; person collecting tax, whether it is specifically charged as such to person to whom spirits are delivered or not, will be held liable for same. (T. D. 2749; July 29, 1918.)

Payment—Distraint for nonpayment.

Collectors should use vigilance in collection of taxes and issue distraint warrant wherever necessary; if taxes secured by filing of bond are not paid within time limit, collector should endeavor to collect by distraint. (T. D. 2574; Oct. 31, 1917.)

Where stock of goods upon which floor tax has not been paid is depleted by being sold or removed in such manner as will result in jeopardizing collection of taxes, same should be seized under provision of section 3453, Revised Statutes, without awaiting result of distraint proceedings. (T. D. 2648; Jan. 28, 1918.)

—— Extending time—Security.

Collectors authorized to accept in lieu of surety bonds as security for payment of floor taxes, covered by section 1002 of the act of October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of taxes paid. (T. D. 2537; Oct. 17, 1917.)

Bonds deposited as security must be immediately forwarded to Commissioner of Internal Revenue by registered mail for safe-keeping, except where collector's office is in same city as Federal reserve bank, in which case coupon bonds received should be deposited with such bank, which will issue its receipt; disposition of receipts; assignment of registered bonds; insurance of packages. (T. D. 2554; Oct. 25, 1917.)

Collectors authorized to accept certificate of bank or trust company, member of Federal Reserve System, sufficiency and solvency of which are satisfactory to collector, to effect that taxpayer has deposited cash or Treasury certificates of indebtedness in full payment of Liberty loan bond subscriptions in name of "Commissioner of Internal Revenue in trust for ——— ———," or in event bond transaction is not consummated taxes will be paid to collector in cash or corporate security bond filed; form of certificate indicated; certificate to be forwarded to Commissioner of Internal Revenue. (T. D. 2554; Oct. 25, 1917.)

Form of bond with personal surety to be executed in penal sum of not less than tax due and in no case less than $1,000 prescribed; personal surety need not be required to qualify on Form 33 when he is supported by collateral security of a value clearly in excess of amount of tax due. (T. D. 2557; Oct. 27, 1917.)

Bond as security for payment of floor taxes filed before expiration of 10 days after the date of notice and demand for payment should be accepted as security; bond may be accepted after such 10 days, if sufficient in amount to cover tax and accrued penalties. (T. D. 2574; Oct. 31, 1917.)

Form of bond to be executed in duplicate with approved surety company prescribed for extending payment to date not exceeding seven months from passage of act of October 3, 1917, of additional taxes imposed by act. (T. D. 2533; Oct. 6, 1917.) Penal sum of bond fixed at not less than tax due; if tax as shown by return is less than $1,000, penal sum of bond may be less than $1,000. (T. D. 2574; Oct. 31, 1917.)

Where Liberty bonds are deposited as security, principal must execute bond in stated form; Liberty bonds deposited and in possession of collector of internal reve-

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Payment—Continued.

—— **Extending time—Security**—Continued.

nue should be surrendered to taxpayer as soon as the tax and interest have been paid; if tax is paid in installments, a proportionate amount of the collateral deposited may be surrendered in the discretion of the collector. (T. D. 2574; Oct. 31, 1917.)

Where collateral other than Liberty bonds is deposited as security, principal must execute bond in stated form, and collector is required to give certain receipt; collateral should be surrendered to taxpayer as soon as tax and interest have been paid; if tax is paid in installments, proportionate amount of collateral deposited may be surrendered in discretion of collector. (T. D. 2574; Oct. 31, 1917.)

Any registered or coupon bonds of the United States may be accepted as security for payment of floor taxes, in accordance with T. D. 2537, T. D. 2554, and T. D. 2557. (T. D. 2606; Dec. 13, 1917.)

Where satisfactory bonds have not been given for extension of time for making payment, notice and demand should be mailed as provided by section 3184, Revised Statutes, which notice and demand should be served on Form 1-17, and should be followed in order by Form 1-21 and Form 69, within intervals of 10 days of each other; notice where required bonds have been given; penalties; suits on bonds. (T. D. 2648; Jan. 28, 1918.)

Retailer of goods.

Where bookkeeping and stock keeping of wholesale and retail departments are kept separate, they will be regarded as if they were separate and distinct departments, and retail stock will not be subjected to floor tax. (T. D. 2547; Oct. 22, 1917.)

"A retailer who is not also a wholesaler" is a retailer who does not from the same stock of goods also sell at wholesale; hence, where wholesale and retail stocks are kept separate, tax applies only to wholesale stock; where automobiles are sold at both wholesale and retail by person who acts as agent for manufacturer, no floor tax applies, but manufacturer is liable for tax upon all sales. (T. D. 2601; Dec. 3, 1917.)

Tobacco, cigars, etc.

Tax-paid manufactured tobacco, etc., in excess of specified quantity held for sale on October 4, 1917, as well as contents of broken packages and goods in transit on such date, required to be inventoried and returned for assessment of tax provided for by section 403 of the act of October 3, 1917; dealers and others required to pay tax must make return on Form 416 C, in duplicate, under oath, on or before November 2, 1917; payment of tax required at time of filing return, but may, upon filing of bond, be extended to date not exceeding seven months from passage of act of October 3, 1917; principal office or place of business to make return where two or more stores are operated by same dealer. (T. D. 2556; Oct. 16, 1917.)

Stocks of cigars, tobacco, and cigarettes held for sale at close of business October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

FLOUR.

See "Mixed Flour."

FOOD AND FOOD MATERIALS.

Distilled spirits.

See "Distilled Spirits."

Excise taxes.

See "Excise Taxes."

Fermented malt liquors.

See "Fermented Liquors."

Mixed flour.

See "Mixed Flour."

Oleomargarine.

See "Oleomargarine."

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FOR TRADE.

Definition.

The words "for trade," as used in section 603 of act October 3, 1917, mean for business, particularly the business of buying and selling, or for commerce. (T. D. 2753; Aug. 23, 1918.)

FOREIGN.

Definition.

The term "foreign," as used in war excess-profits tax regulations, means created under the law (statutory or other) of any possession of the United States other than Alaska, Hawaii, or the District of Columbia, or of any foreign country or Government, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

FOREIGN CORPORATIONS.

Capital stock tax.

See "Capital Stock Tax."

Definition.

The term "foreign corporation," as used in article 35 of Regulations No. 33, revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

Excess profits tax.

See "Excess Profits Tax."

Income tax.

See "Income Taxes (Corporation)."

FOREIGN COUNTRIES.

See "Aliens"; "Exports"; "Nonresidents."

Capital stock tax—Investments.

No deductions are allowed corporations organized in the United States for capital invested in England, France, and other foreign countries. (T. D. 2417; Dec. 16, 1916.)

Club dues.

Dues and fees paid by residents of United States to clubs located in foreign country and having no branches or organizations here, are not subject to tax imposed by section 701 of act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Distilled spirits.

Section 303, revenue act of 1917, imposing floor taxes on distilled spirits, applies to distilled spirits held on board American ships and intended for sale, whether the vessel on which they were held was at dock in this country, on the high seas, or in foreign waters. (T. D. 3098; Dec. 7, 1920.)

Drafts—Stamp tax.

If a draft drawn abroad, on a foreign drawee, with a foreign payee, passes through a bank here in the course of collection, no tax is payable unless it should be delivered by an agent of the drawer to an agent of the payee within the United States. (T. D. 2682; Mar. 26, 1918.)

Estate tax.

If decedent maintained more than one residence, his principal residence (actual domicile) determines internal-revenue district in which return must be filed and tax paid; if decedent was nonresident and his sole property within United States, Hawaii, or Alaska was stock or bonds of an American corporation, returns should be filed with collector in whose district head office of corporation is located, unless estate has representative in this country in charge of stocks or bonds, in which case return may be filed with collector in whose district representative has his office. (T. D. 2513; July 16, 1917.)

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Estate tax—Continued.

Securities, such as shares of stock in domestic corporations which are property within the United States within the meaning of Title II of the act of September 8, 1916, deposited by an individual not resident within the United States with the British Treasury, for which certificates of deposit were issued, are at the death of such nonresident, if such certificates have not been transferred, a part of his gross estate and subject to estate tax. (T. D. 2772; Nov. 8, 1918.)

Excise taxes.

A foreign Government buying or leasing an article for its own use is not a dealer, nor in the case of moving-picture films is it deemed an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

Boats used in the United States or navigating United States waters are subject to tax imposed by section 603 of act October 3, 1917, although of foreign register. (T. D. 2753; Aug. 23, 1918.)

Freight transportation.

Where consignment, having both origin and destination within United States, passes out of United States on its journey, gross transportation charges from point of origin to final destination are subject to tax imposed by section 500 of act of October 3, 1917. (T. D. 2676; Mar. 18, 1918.)

Tax imposed under section 500 of the act of October 3, 1917, does not apply to property passing through United States from one foreign port or place to another, but if such property, while so passing through United States, be reconsigned to a destination within United States, tax applies to transportation charges thereon from point or place of entry to such destination. (T. D. 2676; Mar. 18, 1918.)

Amounts paid by foreign Governments for transportation and transmission services are subject to the taxes imposed by section 500 of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Income taxes—Exemptions.

Section 30 of the act of September 8, 1916, as amended by the act of October 3, 1917, does not exempt from tax any income collected by foreign Governments from investments in the United States in stocks, bonds, or other domestic securities, which are not bona fide owned by but are loaned to such foreign Government. (T. D. 2690; art. 87.)

—— Information at source.

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent, then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed for failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

—— Ownership certificates.

Where income-tax ownership certificates (Form 1001, revised), have been executed by nonresident alien firms or organizations not engaged in business or trade within United States and not having any office or place of business therein, to accompany coupons detached from obligations of domestic corporations, they may be accepted by debtor corporations and withholding agents prior to January 1, 1917, if the words "not exempt" are stamped in large type across face of certificates before presentation; debtor corporations and withholding agents held liable under T. D. 2374 for normal tax provided to be withheld by act of September 8, 1916. (T. D. 2377; Oct. 4, 1916.)

Where bonds of foreign countries or bonds or stocks of foreign corporations are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by his actual owner, or by his duly authorized agent, when presenting item for collection, whether

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Income taxes—Continued.

—— **Ownership certificates**—Continued.

item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries or bonds or stocks of foreign corporations are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate, Form 1071, revised, shall be used for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificates shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

—— **Returns.**

Commissioner of Internal Revenue may, in his discretion, upon application therefor and upon satisfactory showing, grant reasonable extension of time for filing returns by persons residing or traveling abroad who are unable to file on or before March 1 of each year. (T. D. 2690; art. 22.)

Returns executed abroad may be attested free of charge before any United States consular officer; where foreign notary or other official having no seal shall act as attesting officer, his authority should be certified to by some judicial official or other proper officer having knowledge of appointment and official character of attesting officer. (T. D. 2690; art. 26.)

Passenger transportation.

Subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for transportation of persons by carriers from point in United States to another point therein, even though persons pass out of United States in course of transportation, and from point in United States to another point therein, or—where ticket is sold or issued in United States—from point in United States to point in Canada or Mexico, when such transportation is part of through transportation to or from foreign country other than Canada or Mexico. (T. D. 2676; Mar. 18, 1918.)

Where exchange order is issued outside the United States, Canada, or Mexico as part of or in connection with through transportation, ticket for which exchange order is exchanged deemed to be ticket sold and issued at point where exchange is

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Passenger transportation—Continued.

made, and tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to any additional amount paid in United States in connection with ticket or exchange order issued in Canada, Mexico, or any other foreign country. (T. D. 2676; Mar. 18, 1918.)

Stamp act provided for by subdivision 10 of Schedule A, section 807, of act of October 3, 1917, is imposed on cost of a one-way or round-trip ticket for each passenger sold or issued in United States for passage by any vessel from port in United States, Canada, or Mexico, to port or place not in United States, Canada, or Mexico, provided cost of vessel's proportion exceeds $10; if passage be paid on through, one-way, or round-trip ticket, involving transportation partly by rail and partly by water, tax applies to that proportion of amount paid which accrues to vessel; table showing vessel's proportion of selling price of each ticket; governmental exemption; method of paying tax. (T. D. 2676; Mar. 18, 1918.)

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for accommodations in parlor or sleeping cars, or on vessels, for use in connection with transportation between points in United States or from point in United States to point in Canada or Mexico, whether payment thereof be made in United States or elsewhere, and even though such transportation be part of through transportation to or from a foreign country other than Canada or Mexico. (T. D. 2676; Mar. 18, 1918.)

FOREIGN ITEMS.

See "Income Taxes (Individuals)."

Definition.

The term "foreign item," as used in article 35 of Regulations No. 33, revised, means any dividend upon stock of foreign corporation or any item of interest upon bonds of foreign countries or of resident foreign corporations, whether or not such dividend or interest is paid in the United States or by check drawn on a domestic bank. (T. D. 2759; Oct. 2, 1918.)

FOREIGN PARTNERSHIPS.

Excess profits tax.

See "Excess Profits Tax."

Income taxes.

See "Income Taxes (Corporations)."

FORFEITURES.

See "Distraint;" "Seizures."

Distilled spirits.

Distilled spirits seized because of filing of incorrect return or failure to file return not willful may be released on payment of tax and compromise offer of 25 per cent; payment of tax and compromise offer of 100 per cent required in case of false return or willful failure to file return. Acceptance of such offers is in lieu of forfeiture only. (T. D. 2877; June 27, 1919.)

Property used to defeat law.

Statute for raising of revenue even when containing provisions of highly penal nature is still to be considered as a whole and in a fair and reasonable manner, and not strictly in favor of claimant to property used to defeat the revenue laws, forfeited under provisions of such statute. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

The inference of intention of statute to exempt from forfeiture property of innocent owner used in violating internal-revenue laws will be adopted where property has been taken by a trespasser or thief, or the owner thereof has been deprived of possession by force of nature beyond his control; but where owner voluntarily parts with possession there is no limitation or exemption that forfeiture shall depend upon proof of fraud in owner of such conveyance or on any other condition. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

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Stills.

The requirement of law that all stills set up must be registered, whether intended for use or not, applies to all stills, of whatever size and for whatever purpose intended, whether for distillation of spirits or for pharmaceutical or other purposes; and any still or distilling apparatus not so registered is subject to forfeiture to the United States, together with all personal property in the possession or custody or under the control of the person having possession or control of such still or distilling apparatus and found in the building or in any yard or inclosure connected with the building in which same may be set up. (T. D. 2993; Mar. 22, 1920.)

Vehicle used in transporting distilled spirits.

Nonparticipation of owner of automobile in its use in transporting distilled spirits upon which the tax had not been paid is no bar to proceeding in rem for its forfeiture. (T. D. 2776; Dec. 11, 1918.)

Under section 3450, Revised Statutes, automobile used in transporting spirituous liquors on which tax has not been paid, borrowed from purchaser thereof, who had given his note secured by deed of trust thereon for unpaid purchase price, is subject to forfeiture as against seller, though under terms of deed and the State law the seller could require the trustee to seize such automobile and sell it in satisfaction of his deed, and though he had no knowledge of any intention to use such automobile for an illegal purpose. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

FORMULAS.

See "National Formulary"; "United States Pharmacopœia."

Alcohol and antiseptic mixture.

Formulas for mixture of alcohol withdrawn for use in hospitals, etc., with an antiseptic stated; application for permit and bond. (T. D. 2496; May 31, 1917.)

Formula 25 extended to use in manufacture of 3½ per cent tincture of iodine. (T. D. 2527; Sept. 28, 1917.)

Apothecaries will not be charged with liability to special tax on account of sale in quantities not exceeding 1 pint of alcohol for bathing or antiseptic purposes, providing it is compounded prior to sale, but not in bulk or in advance of orders, in such manner as to make it unfit for use as beverage; approved formulas for purpose of rendering alcohol unfit for beverage stated; containers of alcohol treated in such manner must bear "poison" labels. (T. D. 2760; Oct. 9, 1918.)

Denatured alcohol.

Formula, designated as No. 23, for special denaturation of alcohol to be used in manufacture of liniment stated; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants; permission required to use special denaturant in any central distilling and denaturing plant, as provided in articles 2 and 19 of Supplement No. 2 to Regulations 30. (T. D. 2379; Oct. 6, 1916.)

Formula for special denaturation of alcohol to be used in manufacture of phenacetin stated; it is understood that no part of alcohol remains in finished product which must meet specifications of United States Pharmacopœia, and that formula is to be used in completed process for manufacture of phenacetin and not merely for any one stage and that process is to be closed and continuous. (T. D. 2381; Oct. 16, 1916.)

Formula, designated as No. 25, approved for special denaturation of alcohol to be used exclusively in manufacture of tincture of iodine; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants. (T. D. 2413; Dec. 11, 1916.)

Formula, designated as No. 26, for special denaturation of alcohol to be used exclusively in the manufacture of ethylaniline and diethylaniline stated; officers instructed to exercise great caution in recommending granting of permits for use of such denaturant; application must be accompanied by blue print or drawing of premises, same to be duly sworn to and detailed description of process. (T. D. 2430; Jan. 2, 1917.)

Alcohol denatured according to stated formula may be used in the manufacture of soap liniment (U.S.P.) chloroform liniment (U.S.P.), liniment of soft soap, and green soap when manufactured in accordance with standards of United States

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Denatured alcohol—Continued.

Pharmacopoeia with exception that products will contain camphor and rosemary; denaturant may be used only in central denaturing and distilling plant of industrial character as established under subsection 2, of paragraph N, of section 4, of the act of October 3, 1913, and Supplement No. 2 to Regulations No. 30; samples of liniment of soft soap and green soap required to be submitted together with formula before bond is approved; permission for use of special denaturants must be obtained. (T. D. 2465; Mar. 24, 1917.)

Use of formula 6-b, containing pyridine as a denaturant, extended temporarily for those purposes for which special formula No. 17 has heretofore been authorized, and restriction in respect to operating in connection with distillery or central denaturing bonded warehouse temporarily removed. (T. D. 2484; Apr. 21, 1917.)

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

Specifications for acetone content in denaturing grade of wood alcohol changed so as to contain not more than 10 grams nor less than 3 grams per 100 c. c. of acetone and other substances estimated as acetone. (T. D. 2587; Nov. 21, 1917. See T. D. 2268; Dec. 4, 1915.)

T. D. 2587 revoked, and Article V of Regulations No. 30, providing that wood alcohol used in denaturing shall contain not more than 20 grams nor less than 10 grams of acetone or other substances estimated as acetone, per 100 cubic centimeters when tested by the Messinger method, again made effective; wood alcohol complying with T. D. 2587, on hand or in transit, permitted to be used for denaturing purposes until and on January 31, 1919. (T. D. 2779; Dec. 17, 1918.)

Formula No. 28, for special denaturation of alcohol for use in manufacture of motor fuel, stated; formula authorized to be used exclusively in manufacture of motor fuel by a closed and continuous process, in connection with a central denaturing bonded warehouse; analytical requirements; process after denaturation; samples of finished product to be furnished; application for use of denaturant to be accompanied by blue prints and full description of process and premises. (T. D. 2769; Nov. 4, 1918.)

Formula No. 29, for denaturation of alcohol for use in manufacture of glacial acetic acid, stated; sketches of routing of alcohol and the closed and continuous process, as well as detailed description, must accompany application for use of such formula. (T. D. 2758; Sept. 20, 1918.)

Formula No. 31, for special denaturation of alcohol to be used in the manufacture of tooth paste, stated; samples of finished product, together with formula of ingredients, labels, advertising matter, etc., required to be furnished; this data should be accompanied by full description of process of manufacture and a blue print or pencil drawing showing location of room or rooms in which denatured alcohol is to be used. (T. D. 2819; Apr. 10, 1919.)

Formula 31A, for the denaturation of alcohol for use in the manufacture of tooth paste, stated. (T. D. 2855; June 7, 1919.)

Formula 3A, for special denaturation of alcohol for use in the manufacture of transparent soap, modified. (T. D. 2820; Apr. 10, 1919.)

Formula No. 30, for special denaturation of alcohol to be used exclusively as reagent for analytical and testing purposes by chemical and physical laboratories, stated; alcohol so denatured shall not be redistilled or purified to use, and is not to be recovered for reuse; use of this formula will not be permitted until intended use and method of its use is satisfactorily set forth in application filed; laboratories required to qualify, keep records, and comply with regulations, as in case of manufacturers using specially denatured alcohol. (T. D. 2793; Feb. 20, 1919.)

Formula No. 32, for denaturation of alcohol for use in manufacture of "ethylene," stated; formula may only be used in process which is closed and continuous and which will completely destroy the alcohol as such. (T. D. 2863; June 14, 1919.)

Formula No. 4, for complete denaturation of alcohol, stated; benzol submitted required to conform to specifications set out. (T. D. 2853; June 3, 1919.)

Proprietary medicines.

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of the price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer; provided that the manufacturer claims to have any private formula, secret or occult art for making or preparing them. (T. D. 2719; Art. XIX.)

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Proprietary medicines—Continued.

Every medicinal preparation, compound, or composition embraced within one or more of the subdivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Where the owner of a formula contracts with a manufacturer to prepare an article according to such formula and to deliver it to him in complete, salable form, the labels bearing the formula owner's name, he is considered the manufacturer. (T. D. 2719; Art. XXI.)

Printing on labels the directions and indications for use, dosage and other similar matter, will not alone render preparations made under a standard formula taxable, provided preparation is not held out or recommended as a proprietary preparation or as a remedy or specific; where medicinal preparations are sold under labels which do not indicate that the formula is published they will be considered to be prepared under private formulas, unless proof is submitted that the formula is not secret. (T. D. 2719; Art. XXII.)

FORTIFICATION OF WINES.

See "Wines."

FRANCHISES.

Excess profits tax—Invested capital.

If good will, trade-marks, trade brands, franchises of a corporation or partnership, or other intangible property has been purchased with stock or shares issued prior to March 3, 1917, amount that may be included in invested capital must not exceed 20 per cent of par value of total stock or shares outstanding on that date, nor actual value of asset at date acquired, nor par value of stock issued in payment for the asset. (T. D. 2694; art. 57.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property. (T. D. 2694; art. 66:)

Patents and copyrights, and good will, trade-marks, trade-brands, franchises and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

FRANCHISE TAXES.

Exemption.

Corporation owning Liberty bonds is not, to that extent, exempt from franchise taxes, excise taxes, and other corporation taxes of the United States, and of the several States. (T. D. 2512; June 8, 1917.)

Income taxes—Net income.

Banks paying taxes assessed against stockholders on account of ownership of shares of stock issued by such bank can not deduct amount of taxes so paid unless and to extent that laws of State in which they do business by specific terms make tax direct liability of such banks; fact that State laws make it duty of banks to pay tax does not necessarily make tax a liability of the banks. and such payments are not deductible from gross income of such banks; rule applies only to taxes levied upon value of capital stock, and is not intended to prevent bank from deducting any State tax imposed on value of corporation's real estate, furniture, and fixtures, or as an excise or franchise tax; rule applies in case of corporations other than banks, upon value of whose stock taxes are assessed to the stockholders. (T. D. 2690; art. 192.)

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FRATERNAL ORGANIZATIONS.

Capital stock tax.

Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for payment of life, sick, accident, or other benefits to members of such society, order, or association, or their dependents, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues.

Dues or fees paid to fraternal orders not falling within the express exemption of section 701 of the act of October 3, 1917, are not subject to the tax imposed by that section, if the purposes and practices of the order to which they are paid are religious, benevolent, or educational, and any social activities of the order are incidental and subordinate; where the purposes or practices of any fraternal order are primarily social in character, dues or fees paid to it are primarily social in character, dues or fees paid to it are subject to the tax. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Exemptions.

See "Income Taxes (Corporations)."

Insignia—Excise taxes.

Insignia of fraternal societies, when intended to be carried on the person and made wholly or in part from gold, silver, or platinum, or having the appearance thereof, are deemed to be jewelry within section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XIV.)

Insurance—Exemption from tax.

Fraternal beneficiary society, order, or association, operating under lodge system or for exclusive benefit of members of fraternity itself, operating under lodge system, and providing for payment of life, sick, accident or other benefits to the members of such society or order or their dependents, is exempt from tax on insurance. (T. D. 2588; Nov. 21, 1917.)

Occupational taxes—Pool or billiard tables, etc.

Occupation tax levied by act of September 8, 1916, is applicable to pool or billiard tables and bowling alleys in fraternity houses and lodge halls. (T. D. 2462; Feb. 16, 1917.)

FRAUD.

Returns of taxpayers.

See specific heads.

FREE ADMISSIONS.

Taxability.

Bona fide employees, municipal officers on municipal business, and children under 12 years of age when admitted free, are not taxable; application of ruling to baseball reporters and telegraphers, employees of management or of concessionaires selling refreshments, newsboys selling newspapers, newspaper critics and reporters, and doctors and attorneys for theaters. (T. D. 2681; Mar. 26, 1918.)

Every person, corporation, organization, or association, admitting any person free to any place where admission is charged, must collect tax on such admissions from the persons admitted, and make monthly return and payment of collections as provided in section 503. (T. D. 2681; Mar. 26, 1918.)

Free admissions are taxable at same rate as paid admissions entitling to similar accommodations; holder of pass for single admission required to pay tax, at option of proprietor, when pass is issued (it then to be stamped "Tax paid"), or when it is presented for admission, and holder of season pass required to pay tax, at option of proprietor, when it is issued (it them to be stamped "Tax paid"), on all admissions to which pass entitles, or whenever it is presented, on each single admission; tax must be paid by holder of pass; where pass is "Tax paid" no refund of tax will be allowed on account of failure to use any or all of admissions covered; admission of lady on gentleman's ticket without extra charge is not taxable, because same ticket covers both, even though unaccompanied lady must pay same admission as gentleman. (T. D. 2681; Mar. 26, 1918.)

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FREE TRANSPORTATION.

Taxability.

Tax imposed by sections 500 and 501 of act of October 3, 1917, applies to transportation by carrier of property belonging to or for personal use of any of its officers, agents, or employees, even though such property be transported free of charge. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax imposed by section 500 of the act of October 3, 1917, does not apply to amounts paid for transportation of persons by carriers where they are carried free under the provisions of Federal or State laws; the 10 per cent tax imposed by such section does not apply where accommodations in parlor or sleeping cars or on vessels are furnished free under the provisions of Federal or State laws. (T. D. 2676; Mar. 18, 1918.)

Tax imposed by subdivision (b) of section 500 of act of October 3, 1917, applies whether package, parcel, or shipment be transported by rail, water, mechanical motor power or other means of conveyance; if facilities of railroad company on line of which express company operates be necessary for use of latter company, and if such latter company, under contract, transports commodities necessary to maintain or operate such facilities, and express company makes no charge for transportation, charges which, but for such arrangement, would have accrued on such transportation, are exempt from tax. (T. D. 2676; Mar. 18, 1918.)

FREIGHT TRANSPORTATION.

See "Transportation"; "Transportation Tax."

Income tax—Information at source.

Bills paid for freight do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

FRUITS.

See "Distilled Spirits"; "Horticulture"; "Orchards"; "Wines."

FRUIT BRANDY.

See "Brandy."

FRUIT GROWERS' ASSOCIATIONS.

Capital stock tax.

Fruit growers' association organized and operated as sales agent to market product of its members, turning back to them proceeds of sales less necessary selling expenses, on basis of quantity of produce furnished by them, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art, 12; Aug. 9, 1918.)

Horticultural organizations.

See "Horticulture."

FUTURES.

Exchanges, sales on—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house; acting as agent, required to make returns showing stamps affixed and cancelled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contract of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Exempt transactions.

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest bene-

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Exchanges, sales on—Continued.

—— **Exempt transactions**—Continued.

ficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax imposed by section 807, Schedule A, subdivision 5, act of October 3, 1917, to apply; sale by member of exchange made by mail or wire not at an exchange is not subject to the tax. (T. D. 2795; Feb. 26, 1919.)

—— **Memorandum.**

Every sale or agreement, not evidenced by memorandum or contract expressly requiring immediate or prompt delivery shall be deemed to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery, shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum, written return of sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses, acting as agents, required to return statements of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

GAMES.

Admissions—Athletic contests.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

—— **Baseball games.**

Admissions of baseball reporters and telegraphers, occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, and of newsboys selling newspapers are exempt from tax under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next

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Admissions—Continued.

—— **Baseball games**—Continued.

return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1916.)

Excise taxes.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which games and parts of games, except playing cards and children's toys and games, are sold by the manufacturer; parts of games are taxable, and if used in a complete game sold as such the tax attaches, even though parts have been separately taxed; the game of cribbage is taxable as a whole although it consists partly of playing cards on which a tax has been paid; card games to be played by adults as well as children, other than ordinary playing cards, are subject to the tax. (T. D. 2719; Art. XVII.)

Bowling alley tenpins are "parts of games" within the meaning of section 600(f) of the act of October 3, 1917, and are subject to taxation thereunder. (T. D. 2795; Feb. 26, 1919.)

GAS.

Income taxes—Depletion and depreciation.

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

In case of operating fee owner, amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date, or actual cost of property if acquired subsequent to that date, plus, in either case, cost of development (other than cost of physical property incident to such development up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property upon which depreciation deduction is computed should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

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Income tax—Depletion and depreciation—Continued.

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion, territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited with amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account, with respect to this property and capital invested therein, will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

Estimate, subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient, when multiplied by number of units removed from territory in one year, will determine amount which will be allowably deducted from gross income for that year on account of depletion or as return of invested capital until total of such deduction shall equal capital invested. (T. D. 2690; art. 170.)

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

—— **Returns.**

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee, that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

GASOLINE.

Substitute.

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

GAUGERS.

Assignment to distilleries and wineries.

Regulations with reference to assignment to bonded wineries of gaugers and of storekeeper-gaugers as gaugers; compensation and traveling expenses; duties; proprietors required to furnish Salleron-Dujardin ebullioscopes for use of gaugers, and sweet-wine sets may be used by revenue agents, deputy collectors, and others, for verifying and testing alcoholic content of wines. (T. D. 2380; Oct. 10, 1916.)

General storekeeper-gauger will be designated, assigned, and compensated and will perform service as provided by Regulations Nos. 7 and 2 and T. D. 2408, with the reservation that in the discretion of the collector of internal revenue or of the commissioner, any distillery, general or special bonded warehouse may be placed in charge of an officer thus designated whenever withdrawal of spirits is inconsiderable

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Assignment to distilleries and wineries—Continued.

or whenever the collector or the commissioner deems such course to be for the best interest of the Government. (T. D. 2444; Feb. 9, 1917.)

Instructions with reference to assignment to distilleries of storekeeper-gaugers in place of storekeepers and gaugers; bonds; hours of work; duties; compensation. (T. D. 2438; January 29, 1917. T. D. 2456; Mar. 16, 1917.).

Instructions with reference to assignment of gaugers to fruit-brandy distilleries producing 100 gallons per day; storekeeper-gaugers assigned, when; recommendations for assignments on Form 241; compensation; hours of labor; duties as to records, reading meters, etc. (T. D. 2491; May 21, 1917. T. D. 2514; July 24, 1917.)

Rate of pay of officers assigned in dual capacity of storekeeper-gaugers to distillery warehouses at distilleries having registered capacity of more than 20 bushels and to special bonded and general bonded warehouses fixed at $4 per day, this rate to be applicable in case of distillery warehouse whether distillery is being operated or is under suspension, and as to all warehouses irrespective of quantity of spirits stored therein; when, however, quantity of spirits in warehouse is 5,000 gallons, or less, rate of pay will be fixed at $4 per day for such days only as officer is required to visit warehouse for necessary purposes; this rate of pay to be effective on and after February 1, 1920. (T. D. 2980; Feb. 11, 1920.)

GAUGING RODS.

Distilled spirits.

Instruction with reference to change in price of standard gauging rod or any part thereof, and as to making applications and sending remittances therefor. (T. D. 2617; Dec. 13, 1917.)

Notice of increase in price of Alexander's improved wantage rod and instruction as to method of procuring and using same. (T. D. 2640; Jan. 28, 1918.)

GIFTS.

Definition.

To constitute a valid gift, there must be an absolute transfer of property from donor to donee, taking effect immediately and fully executed by delivery of property of donor and acceptance thereof by donee; it is essential that transactions should be fully executed by delivery of property to donee or to some person for him. (T. D. 2529; Oct. 4, 1917.)

Estate tax.

Thirty-day notice (Form 705) must be filed within 30 days after death of decedent whose estate is taxable, by donees who have received within two years prior to decedent's death any gift of material value from decedent, or who have received at any time whatever gifts made by decedent in contemplation of, or intended to take legal effect at, death. (T. D. 2454; Feb. 28, 1917.)

Where decedent exercises general power of appointment as donee under will of prior decedent, property so passing is portion of gross estate of decedent appointor; when property is transferred by special or limited power of appointment, question of taxability will depend upon terms of instrument by which donee of the power acts, and facts in any such case should be reported fully to commissioner. (T. D. 2477; Apr. 7, 1917.)

Every gift or transfer of material value made or effected by decedent within two years prior to day of death must be shown under item two in executing Form 706; evidence showing whether gift or transfer was made in contemplation of death may be submitted with the return, and question of taxability will be ruled upon before assessment is confirmed; every gift or transfer made in contemplation of or intended to take effect after death must be returned. (T. D. 2513; July 16, 1917.)

Excess profits tax.

Contributions or gifts for religious, charitable, etc., purposes allowed as deduction for purposes of income tax under paragraph ninth of subdivision (a) of section 5 of the act of September 8, 1916, as amended, may, subject to limitations therein contained, be deducted in computing net income of trade or business only when shown to satisfaction of Commissioner of Internal Revenue that such contributions or gifts are made by trade or business and not by individual in his personal capacity. (T. D. 2694; art. 37.)

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Income taxes—Exemptions.

Value of property acquired by gift shall not be included as income, but income from such property shall be reported. (T. D. 2690; art. 5.)

—— Gross income.

Fair market price or value of stock acquired by gift subsequent to March 1, 1913, is basis for computing gain derived or loss sustained by sale thereof; if acquired by gift prior to March 1, 1913, fair market price or value as to that date is the basis for computation. (T. D. 2690; art. 4.)

Where to enable corporation to secure working capital or for any other purpose stockholders donate or return to corporation to be resold by it certain shares of stock of company previously issued to them, resale will be considered a capital transaction and proceeds will be treated as capital and will not constitute income to the corporation. (T. D. 2690; art. 99.)

—— Net income.

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered; if, when added to salaries, they do not exceed reasonable compensation for services, they will be regarded as part of the wage or hire and therefore an ordinary and necessary expense of operation and maintenance and as such will be deductible. (T. D. 2690; art. 8.)

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Donations which legitimately represent consideration for benefit flowing directly to corporation as incident of business may be deducted. (T. D. 2690; art. 134.)

Donations made to employees and others, and which do not have in them the element of compensation, are considered gratuities and are not allowable deductions from gross income as expenses of operation or maintenance or under any other item. (T. D. 2690; art. 135.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered by employees; if, when added to stipulated salaries, they do not exceed a reasonable compensation for services rendered, they will be regarded as a part of the wage or hire of the employee and are deductible as an ordinary and necessary expense of operation and maintenance. (T. D. 2690; art. 138.)

Corporations, partnerships, or individuals paying officers or business employees portion or all of their salaries and wages during the war period in which they are in the service of the United States may deduct amounts so paid as ordinary and necessary expenses of doing business. (T. D. 2660; Mar. 1, 1918.)

—— Returns.

In connection with claim for deduction of contributions or gifts on returns of income there shall be stated name and address of each organization to which gift was made, and the date and amount of the gift in each case; where gift is other than money, basis for calculation of value shall be fair market value of property subject to gift at time of gift. (T. D. 2690; art. 8.)

Internal revenue officers.

Collection of money from officers and employees of Treasury Department in field service for giving of personal gifts to officers and employees holding office, or to incoming or retiring officials, prohibited; decision as to whether subscription lists may be circulated for worthy national institutions rendering service to military and naval forces of Government, such as Red Cross, rests with head of each office in field service. (T. D. 2862; June 12, 1919.)

Wines.

Wines given away by dealers are nevertheless subject to tax under the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

GIN.

See "Distilled Spirits."

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GINGER.

Jamaica ginger—Nonbeverage alcohol.

See "Alcohol."

GINGER ALE AND BRANDY.

Beverages.

See "Beverages."

GOLF.

Balls and clubs—Excise taxes.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which golf balls are sold by the manufacturer. (T. D. 2719; art. XVII.)

Tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which golf clubs are sold by the manufacturer; heads and shafts of golf clubs are not taxed until combined and sold as complete clubs. (T. D. 2719; Art. XVII.)

Clubs—Dues.

Golf clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Golf club dues for which the member receives as one of the privileges of membership a season ticket for a municipal golf course are subject to tax without deducting part paid by club to city for the season ticket. (T. D. 2782; Dec. 24, 1918.)

Links—Admissions.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as golf links, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

GOOD WILL.

Definition.

Good will is an intangible asset whose value, separate and apart from business with which it is connected, is not capable of determination; it does not represent a value attaching to physical property. (T. D. 2690; art. 8.)

Good will represents value attached to business over and above value of physical property. (T. D. 2690; art. 167.)

Excess profits tax—Invested capital.

The term "other intangible property," as used in section 207 of the act of October 3, 1917, construed to mean property of character similar to good will, trade-marks, and other specific kinds of property enumerated in same clause. (T. D. 2694; art. 47.)

If good will, trade-marks, trade brands, franchises of a corporation or partnership, or other intangible property has been purchased with stock or shares issued prior to March 3, 1917, amount that may be included in invested capital must not exceed 20 per cent of par value of total stock or shares outstanding on that date, nor actual value of asset at date acquired, nor par value of stock issued in payment for the asset. (T. D. 2694; art. 57.)

Rules governing cases where stock or shares (or stock or shares and bonds or other obligations) have, prior to March 3, 1917, been issued for a mixed aggregate of tangible property, patents, and copyrights, and good will or other intangible property, stated. (T. D. 2694; art. 59.)

Good will and other similar intangible assets purchased with cash or tangible property must be taken at value not in excess of the cash or actual cash value of the tangible property specifically paid therefor. (T. D. 2694; art. 60.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents, and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property (T. D. 2694; art. 66.)

Patents and copyrights, and good will, trade-marks, trade brands, franchises, and other similar intangible assets may be included in invested capital at value not to

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Excess profits tax—Invested capital—Continued.

exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

Income taxes—Gross income.

Stock dividends declared from earnings or profits accrued prior to March 1, 1913, or from surplus created by revaluation of capital assets, or from placing value upon trade-marks, good will, etc., do not represent distribution of earnings or profits subject to tax in hands of shareholder; when stock received in payment of such dividend, or stock in respect of which any such dividend was paid, is sold, cost of each share of stock, whether new or old, for purpose of ascertaining gain or loss from sale, is quotient of cost of old stock, if acquired on or after March 1, 1913, or its fair market price or value as of that date if acquired prior thereto, divided by the number of old and new shares added together, and profit so ascertained is income subject to both normal and additional tax, to be accounted for in shareholder's return for year in which sale is made. (T. D. 2734; June 17, 1918.)

—— Net income.

For purpose of income tax good will is capable of neither appreciation nor depreciation, and amount claimed to represent its decline in value is not an allowable deduction in computing tax liability of an individual or corporation. (T. D. 2690; art. 8.)

No claim for depreciation on account of good will can be allowed; any loss resulting from or on account of investment in good will can be determined only when property or business to which good will attaches is sold or disposed of, in which case profit or loss will be determined upon basis of value of assets including good will if acquired prior to March 1, 1913, or their cost if acquired subsequent to that date. (T. D. 2690; art. 167.)

If good will shall have been purchased at a determined price and shall be later sold at a price less than such cost, or less than determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such asset was sold. (T. D. 2690; art. 168.)

GOVERNMENTAL EXEMPTIONS.

Carriers, facilities furnished by.

See "Transportation Tax."

Telephone, etc., messages.

See "Telegraphs and Telephones."

GRAIN.

Distilled spirits.

See "Distilled Spirits."

Income tax—Grain-growing corporation.

Corporations engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

GRAPES.

Brandy.

Distillers of brandy made from grape cheese, sweetened as provided in the act of September 8, 1916, are exempted from same provisions of law from which distillers of brandy from other fruits, wine, and fruit pomace residuum have been exempted, as set forth in Regulations No. 7, revised July 10, 1914; seven pounds of unsweetened grape cheese deemed a gallon; records; notice on Form 27½ and new bond on Form 30½; survey; records and returns; samples of sugar solution and of mash. (T. D. 2373; Sept. 28, 1916.)

Only brandy produced from grapes may be fermented and distilled for fortifying sweet wines, after September 8, 1917. (T. D. 2520; Aug. 30, 1917.)

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Brandy—Continued.

Fermenting and distilling of materials for production of beverage brandy after September 8, 1917, prohibited; brandy produced from grapes may be distilled for fortifying sweet wines under acts of September 8, 1916, and August 10, 1917; brandy may be produced from materials fermented after September 8, 1917, for other than beverage purposes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

Cheese—Beverage spirits.

Grape cheese may not be used in producing beverage spirits. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2559; Oct. 26, 1917.)

Juice.

So-called sherry material and grape juice containing one-half of 1 per cent or more of alcohol classed as wine and subject to tax as such. (T. D. 2387; Oct. 30, 1916.)

It is permissible to crush grapes on unbonded premises, provided juice of grapes is removed from premises while wholly unfermented; persons receiving such grape juice, if allowing same to ferment, must qualify as wine makers. (T. D. 2387; Oct. 30, 1916.)

Spirits—Fortification of sweet wines.

Brandy made from grape cheese, sweetened as provided in the act of September 8, 1916, can not be used in fortification of pure sweet wine under provisions of the act of October 1, 1890, as amended. (T. D. 2373; Sept. 28, 1916.)

Regulation of October 26, 1917, prohibiting manufacture of distilled spirits for beverage purposes after September 8, 1917, does not apply to production of grape spirits solely for use in fortification of sweet wines under act of September 8, 1916. (T. D. 2559; Oct. 26, 1917.)

GROSS INCOME.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

Definition.

Gross income, with reference to income tax imposed upon corporations, embraces not only operationg revenues, but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations; also profits made in other corporations; also profits made from sale of assets, investments, etc. (T. D. 2690; art. 88.)

"Gross income," as used in Regulations No. 30, relating to munition manufacturer's tax, mean gross receipts from sale or disposition of munitions or parts thereof enumerated in section 301, Title III, act of September 8, 1916. (T. D. 2384; art. 10.)

GUAM.

Export of wines.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philippine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D. 2387; Oct. 30, 1916.)

GUARANTY.

Income tax—Net income.

Banking corporations which are required to maintain a "Depositors' guaranty fund" may deduct amount set apart each year to this fund, provided that such fund, when set aside and carried to credit of State banking fund or of duly authorized State officer, ceases to be asset of bank but may be withdrawn upon demand by such board or State officer to meet needs of these officers, as required by State laws, in reimbursing depositors in insolvent banks, and provided further that no portion of amount is returnable to assets of banking corporation; if amount is simply set up on books of bank as reserve to meet contingent liability and remains asset of bank, it will not be deductible except as it is actually paid out as required by law and upon demand of proper State officers. (T. D. 2690; art. 146.)

GUARANTY INSURANCE.

See "Insurance."

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GUARDIAN AND WARD.

Income taxes—Exemptions.

Fiduciaries acting for minors or incompetent persons are permitted to take personal exemption as to income derived from property of which they have charge in favor of each ward or beneficiary. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents required to make returns according to marital status of beneficiaries, and in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Committee of property of incompetent person held to be fiduciary for purpose of income tax and required to make return on Form 1040, revised, for incompetent, whenever amount of income is sufficient to require same. (T. D. 2690; art. 29.)

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed guardian, and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax, in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

Copy of income return may be furnished by Commissioner to person who made return or to his duly constituted attorney, or if entity is in hands of guardian to such guardian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision. (T. D. 2962; Jan. 7, 1920.)

HAIL INSURANCE.

See "Insurance."

HARRISON NARCOTIC LAW.

See "Narcotics."

HAWAII.

Excise taxes.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce betweenUnited States and any of its islands or other possessions, except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Gasoline substitute.

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

Public utilities.

See "Transportation Tax."

Stamp taxes.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of

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Stamp taxes—Continued.

Hawaii, and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

HEAD OF FAMILY.

Definition.

Head of family is person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for those dependent individuals is based upon some moral or legal obligation. (T. D. 2690; art. 14.)

Income taxes—Exemptions.

Resident aliens claiming exemption because of families or wives residing abroad, are not heads of families or married men or women with wives or husbands living with them, within the meaning of the income tax law, and they are in no case entitled to more than their individual exemptions of $3,000 under the act of September 8, 1916, and $1,000 under the act of October 3, 1917. (T. D. 2692; Apr. 8, 1918.)

A head of a family is a person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage, or by adoption, in one household; in absence of continuous actual residence together, whether or not a person with dependents is head of a family within the meaning of the statuts must depend on the character of the separation; if a child or other dependent is away only temporarily at school or on a visit, the common home being still maintained, the additional exemption applies; if, however, the dependent continuously makes his home elsewhere, his benefactor is not the head of a family, irrespective of the question of support. (T. D. 2692; Apr. 8, 1918. See T. D. 2427; Dec. 26, 1916.)

—— Filing certificate of ownership.

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 43.)

Wines.

Wines produced by a single person, unless he is the head of a family, are not exempt from tax under section 402 (b) of act September 8, 1916, as being for family use. (T. D. 2765; Oct. 21, 1918.)

Wines made by a partnership or those produced by a winery owned and operated by several heads of families jointly are not exempt from tax under section 402 (b) of act September 8, 1916, as being for family use. (T. D. 2765; Oct. 21, 1918.)

HELD OUT OR RECOMMENDED.

Definition.

"Held out or recommended," as used in section 600 (h) of the act of October 3, 1917, includes representation by any means, personal canvass and statements on the labels, in pamphlets, or advertisements, or otherwise; a holding out or recommendation intended for physicians only is a holding out to the public. (T. D. 2719; Art. XXI.)

HOLDING COMPANIES.

See "Subsidiary Corporations."

Capital stock tax.

Corporation or association organized for exclusive purpose of holding title to property, collecting income therefrom, and turning over entire amount thereof, less expenses, to an organization which itself is exempt from tax, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

A "holding company," organized in the United States for the purpose of acquiring and holding capital stock of subsidiary companies, and actually engaged in holding such stock, voting thereon, receiving dividends thereon, and distributing

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Capital stock tax—Continued.

money among its own shareholders, is engaged in business within the meaning of act of September 8, 1916, and is subject to special excise tax imposed under section 407, and this applies to all holding companies organized in the United States for profit, even though the subsidiary companies operate exclusively in foreign countries; holding companies required to file returns on Form 707, and will be held strictly liable to penalties imposed for failure to make returns within prescribed time. (T. D. 2429; Jan. 4, 1917.)

So-called subsidiary corporations, all or part of stock of which is owned by another corporation, must render returns in same manner as other corporations; no deduction is allowed in return of a holding corporation for tax paid by subsidiary. (T. D. 2503; June 25, 1917. T. D. 2750, art. 24; Aug. 9, 1918.)

Income taxes—Additional tax.

Taxable income includes share to which individual would be entitled of gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of to prevent imposition of such tax, by permitting such gains or profits to accumulate instead of being divided or distributed; fact that such corporation, etc., is mere holding company, or that accumulation beyond reasonable needs is permitted, shall be prima facie evidence of fraudulent purpose to escape tax, but fact that gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of purpose to escape tax, unless Secretary of Treasury shall certify that, in his opinion, such accumulation is unreasonable for purpose of business; statement of gains and profits, etc., required when requested by Commissioner of Internal Revenue. (T. D. 2690; art. 19.)

—— Gross income.

Where holding company actually takes up each month on its books and credits surplus and profits and loss with its proportionate share of earnings of underlying companies, holding company required to include in gross income amounts thus taken up, regardless of fact that same may not have been paid to or received by it in cash; fact that underlying companies credit holding company with amount of earnings to which it is entitled on basis of stock it holds, together with fact that holding company takes up on its books amount thus credited, renders it incumbent upon holding company to return these amounts as income. (T. D. 2690; art. 115.)

Where subsidiary or other corporation sells or transfers assets to parent or other corporation, accepting in exchange therefor stock or bonds of purchasing corporation, question of gain or loss will be determined upon basis of difference between cost or market value of assets sold and actual value of stock or bonds given in exchange therefor; any gain or loss thus ascertained as resulting from such transaction will be added to or deducted from entire gross income, as case may be, of selling corporation in year in which capital assets were sold. ((T. D. 2690; art. 119.)

Where a holding company owns all of the stock of its subsidiary corporations, except the qualifying shares of the directors, and the subsidiary corporations, together with the holding company, constitutes a single enterprise, the accumulated earnings and surplus of the subsidiary corporations used by them as capital prior to January 1, 1913, does not become taxable income of the holding company when formally transferred to it as dividends; T. D. 2542 reversed. (T. D. 2783; Jan. 7, 1919.)

—— Returns.

Where one corporation operating for itself is controlled by another through the ownership of a majority of all of its stock, controlling corporation is merely a stockholder, and subsidiary company must make separate and distinct return, accounting for all income received during each taxable year, and holding company will return as income any dividends or earnings received from operating company. (T. D. 2690; art. 125.)

Where net income of subsidiary corporation upon which tax has been levied and is payable is turned over to parent company, holder of its stock, amount so turned over will be held to be dividends, or amounts paid to it out of net earnings and must be returned by parent company for purpose of 2 per cent tax imposed by the act of September 8, 1916, but for purpose of war income tax imposed by Title II of act of October 3, 1917, net income of parent company may be reduced by amount of dividends so received. (T. D. 2690; art. 207.)

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Income taxes—Continued.

—— **Returns**—Continued.

Fact that branch corporation is organized in any State to meet peculiar conditions there existing and which make it impracticable for parent company as such to do business in such State, although such subsidiary may be to all intents and purposes a mere branch of the parent company, does not relieve it from necessity of making return for each year; if such branch corporation actually transacts business from which income arises, accrues, and is received by it, such corporation must make detailed return, as if it were in no way related to any other corporation, setting forth full amount of income which it receives or which accrues to it, together with authorized deductions therefrom, and upon any net income thus disclosed, tax will be assessed and required to be paid. (T. D. 2690; art. 207.)

Subsidiary corporations existing in name only or as mere agents or integral parts of parent company will be required to make returns of annual net income, and shall indorse thereon statement that it is a subsidiary or integral part of the parent company (naming it) and that for its own account it has no income from any source whatever, that it makes no disbursements, and that all business done in its name is done for account of and as business of parent corporation and will be accounted for in return of such parent corporation. (T. D. 2690; art. 208.)

Subsidiary corporations which actually transact business in their own names receive income for their own account, incur and pay expenses incident to production of income, keep separate books of account, and, as separate entities, exercise all the powers and functions authorized by their charters, will be required to pay income tax on net income received by them from all sources, regardless of fact that such net income is paid or turned over to a parent or holding company, by whom it must also be returned for purpose of tax imposed by section 10 of the act of September 8, 1916; in latter case both parent and subsidiary companies must make separate returns. (T. D. 2690; art. 208.)

HOLIDAYS.

Income taxes—Returns.

When last due date for filing return falls on Sunday or a legal holiday the last due date will be held to be day following such Sunday or legal holiday, and return should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office, under ordinary handling of the mails, on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

HOMEOPATHIC ATTENUATIONS.

Nonbeverage alcohol.

See "Alcohol."

HORTICULTURE.

Horticultural organizations—Capital stock tax.

Provision exempting from tax agricultural and horticultural organizations applies only to those corporations that are engaged in such activities merely for general welfare and benefit of the public, conducting such enterprises as agricultural or horticultural fairs or exhibitions; corporation engaged in general farming, raising cattle, or other agricultural business for profit is liable to the tax. (T. D. 2417; Dec. 16, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Horticultural organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— **Income taxes—Exemptions.**

Horticultural organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Horticultural organizations do not include corporations engaged in growing horticultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations

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Horticultural organizations—Continued.

—— **Income taxes—Exemptions**—Continued.

of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged and as such is not exempt from taxation. (T. D. 2690; art. 74.)

Income taxes—Deduction of development expenses.

Amounts expended in development of orchards prior to time when productive stage is reached constitute investments of capital. (T. D. 2690; art. 4.)

HOSPITALS.

Income taxes—Deduction of donations.

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Withdrawal of alcohol for use in.

See "Alcohol."

HOTELS.

Cabarets.

See "Admissions."

Occupational tax—Pool or billiard tables.

Occupation tax imposed by act of September 8, 1916, is applicable to pool or billiard tables and bowling alleys in hotels. (T. D. 2462; Feb. 16, 1917.)

Passengers' accommodations.

The word "transportation," as used in Title V of the act of October 3, 1917, does not include passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

Tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to each and every service and facility, except passengers' meals and hotel accommodations, rendered by or on behalf of carriers in connection with transportation of persons, where transportation in connection with which service or facility is rendered is subject to tax. (T. D. 2676; Mar. 18, 1918.)

HUNTING CLUBS.

Dues.

See "Dues."

HUSBAND AND WIFE.

Estate tax—Community property.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by surviving husband or wife, as case may be, for one-half the value, at decedent's death, of community property. (T. D. 2454; Feb. 28, 1917.)

If property conveyed to husband and wife is taken by each in entirety and in such manner that each was owner of all, and upon death of either no new interest or title vested in survivor, one-half of property thus jointly owned should be returned as portion of gross estate of decedent husband or wife as case might be; wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of showing that surviving spouse owned any interest therein is upon such spouse. (T. D. 2450; Feb. 14, 1917.)

Highest selling price of stocks and bonds on day of death fixed as value to be returned, or, if no sale, then highest bid price; if stocks or bonds are not listed on the market the executor may set up value that he deems true value as of day of decedent's death; if bulk of estate is community property its value should not be shown under item 4 of Form 706, but decedent's legal share should be returned under the several items. (T. D. 2513; July 16, 1917.)

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Estate tax—Continued.

—— **Household goods.**

Household goods and other chattels used by husband and wife in marriage relation are presumed to be property of husband, and, if widow of deceased claims same as her separate property, she has burden of establishing claim, failure to do which necessitates return of such goods as portion of deceased's gross estate. (T. D. 2529; Oct. 4, 1917.)

Excess profits tax.

Married woman who is sole trader or is entitled to any taxable income to her sole and separate use may make separate return in same manner as any other individual. (T. D. 2694; art. 76.)

Income taxes—Alimony.

Alimony or allowance based on separation agreement is not income to recipient thereof, nor is it an allowable deduction for the person paying same. (T. D. 2690; art. 4.)

—— **Exemptions.**

Where husband or wife having taxable income dies within calendar year, and full exemption for year is used by personal representative in making return, if survivor is also required to make return at close of year for income received within that year, the full personal exemption, according to marital status of survivor at close of year, may be claimed in return of income. (T. D. 2690; art. 14.)

Resident aliens claiming exemption because of families or wives residing abroad, are not heads of families or married men or women with wives or husbands living with them, within the meaning of the income tax law, and they are in no case entitled to more than their individual exemptions of $3,000, under the act of September 8, 1916, and $1,000 under the act of October 3, 1917. (T. D. 2692; Apr. 8, 1918.)

In the case of a married man or a married woman the joint exemption replaces the individual exemptions only if his wife lives with him or her husband lives with her in absence of continuous actual residence together, whether or not a man or woman has a wife or husband living with him or her must depend on the character of the separation; if merely occasionally and temporarily a wife is away on a visit or a husband is away on business, the joint home being maintained, the additional exemption applies, and the unavoidable absence of a wife or husband at a sanatorium or asylum on account of illness does not preclude claiming the exemption; if, however, the husband voluntarily and continuously makes his home at one place, and the wife hers at another, they are not living together for the purpose of the statute, irrespective of their personal relations. (T. D. 2692; Apr. 8, 1918.)

—— **Information at source.**

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 43.)

—— **Returns.**

Exemption allowed husband and wife living together may be taken by one or divided between them in such ratio as they may determine. (T. D. 2690; art. 26.)

Where husband and wife file separate returns, one being filed in time and other delinquent, such returns are not supplemental of each other and delinquency must be answered for by one in connection with whose return it occurred. (T. D. 2690; art. 26.)

Unless wife has separate estate requiring her to file separate return, or to join with her husband in return which shall set forth her income separately, husband should include in return income accruing to wife for services rendered by her, sale of product of her labor; actual proceeds coming into wife's possession during tax year constitute income to be included, and not amount estimated upon acceptance prior to payment for articles sold. (T. D. 2690; art. 26.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

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Income taxes—Continued.

—— **Returns**—Continued.

Joint return of husband and wife shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection, and by the Solicitor of Internal Revenue; and by either spouse for whom return was made or his or her duly constituted attorney, upon satisfactory evidence of such relationship being furnished. (T. D. 2961; Jan. 7, 1920.)

ILLNESS.

Capital stock tax—Returns.

Where failure to file return is due to sickness, collector may allow further time, not exceeding 30 days, for making and filing return as he deems proper. (T. D. 2750, art. 21, Appendixes A, B; Aug. 9, 1918.)

Income tax returns—Agents.

Return may be made by an agent when by reason of illness, absence, or nonresidence person liable for return is unable to make same, agent assuming responsibility of making return and incurring penalties provided for intentional false or fraudulent return. (T. D. 2690; art. 22.)

—— **Extension of time.**

Commissioner of Internal Revenue may, in his discretion, upon application therefor and upon satisfactory showing, grant reasonable extension of time for filing returns by persons residing or traveling abroad who are unable to file on or before March 1 of each year; in case of sickness of citizens and residents extension not exceeding 30 days may be granted by collector. (T. D. 2690; art. 22.)

Where corporation fails or neglects to file return within prescribed time, and such neglect is due to sickness or absence, collector may grant extension of time within which to file return, which extension must not exceed 30 days from normal due date; application for extension must be made prior to expiration of period for which extension is desired. (T. D. 2690; art. 222.)

Sickness of one or more officers at time return is required to be filed will not be accepted as reasonable cause for failure to file return within prescribed time, unless it is satisfactorily shown that there were no other principal officers available and sufficiently informed as to affairs of corporation to make and verify return. (T. D. 2690; art. 223.)

IMMEDIATE OR PROMPT DELIVERY.

Definition.

The term "immediate or prompt delivery," as used in Regulation No. 40, part 2, providing that no tax is imposed on cash sales of products or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered, means delivery at once or as soon as practicable, and in any event within twenty days of the date of sale or agreement. (T. D. 2608; Nov. 30, 1917.)

IMPORTS.

Carriers' charges.

Tax imposed under section 500 of act of October 3, 1917, applies to charges which accrue on property imported into United States from port of entry to destination within United States, but tax does not apply to any payment of charges on property moving on a through bill of lading from a point in Canada or Mexico to a point in the United States; such tax shall be collected as and when transportation charges are collected, if such charges be collected within United States, and upon delivery of consignment, if charges be prepaid outside the United States and not paid at port of entry. (T. D. 2676; Mar. 18, 1918.)

Cigars—Retail price.

Importer of cigars required to file affidavit with collector of customs setting forth necessary information with reference to retail price of cigars when sold singly, and the importer will be held responsible for proper tax payment of such cigars. (T. D. 2569; Oct. 17, 1917.)

Cigarette papers and tubes.

When cigarette paper made up into packages, books, or sets, or cigarette tubes are imported, the customs consumption entry or withdrawal for consumption entry shall be prepared in triplicate and show in detail number of packages, etc., con-

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Cigarette papers and tubes—Continued.

taining stated number of papers each; two copies of customs entries to be filed with collector; tax to be paid to collector at time entries are filed with him; collector to make certain entries on copy of customs entry; report in duplicate to be made by collector of customs to collector of internal revenue of quantity imported. (T. D. 2552; Oct. 22, 1917.)

Taxes imposed by section 404 of act of October 3, 1917, effective on November 2, 1917, upon withdrawal of packages, books, sets, or tubes, from customhouse for consumption or use. (T. D. 2552; Oct. 22, 1917.)

Excise taxes.

See "Excise Taxes."

Income taxes—Deduction of import duties.

Import or tariff duties levied by Congress and paid to proper customs officers are deductible as taxes imposed under authority of United States, provided they are not added to and made a part of the cost of articles of merchandise with respect to which they are paid, in which case they will be reflected in cost of merchandise and can not be separately deducted. (T. D. 2690; art. 195.)

Playing cards.

Manufacturers and importers of playing cards required to render sworn inventory, in duplicate, on or before October 31, 1917, showing number of packs of cards and number of stamps; on October 31, 1917, or 10 days thereafter, return covering period October 4 to 31 required, which return must be rendered for each subsequent month on last day thereof, or on or before 10th day of succeeding month, until supply of stamps at old rate is exhausted; verification of inventories and returns. (T. D. 2538; Oct. 10, 1917.)

Additional tax upon playing cards imposed under subdivision 13 of Schedule A, act of October 3, 1917, became effective on and after October 4, 1917, but this additional tax attaches only to playing cards manufactured or imported and sold or removed for sale on and after that date, and is to be paid by the manufacturers or importers; such tax does not apply to tax-paid stocks in hands of wholesale or retail dealers, who may sell all cards tax paid at 2 cents under act of August 28, 1894, which they had on hand on October 4, 1917, without incurring liability to additional tax. (T. D. 2543; Oct. 19, 1917.)

Porto Rico—Denatured alcohol.

Where alcohol of not less than 180° proof is brought from Porto Rico for denaturation, same may be transferred to any central denaturing bonded warehouse free of tax, upon filing stated bond, which is to be given in duplicate by warehouse proprietor, with sureties satisfactory to collector and in penal sum of not less than triple the amount of tax, and in no case less than $5,000, one copy of bond to be retained by collector, and one copy, with his approval indorsed thereon, to be forwarded to Commissioner of Internal Revenue; instructions as to application for transfer of alcohol; alcohol transferred will, upon arrival .be carefully inspected and reported, on monthly statement (Form 575); such alcohol will be denatured and accounted for in same manner as other alcohol received for like purpose. (T. D. 2575; Nov. 5, 1917.) This decision applies to alcohol produced in Porto Rico on or after October 4, 1917, only; decision further modified so as to permit giving of bond in penal sum of not less than actual amount of tax at rate of $2.20 per proof gallon, and in no case less than $5,000, except that in case of alcohol withdrawn by scientific or educational institutions under section 3297, Revised Statutes, bond shall be for penal sum of not less than double amount of tax at rate of $3.50 per gallon. (T. D. 2641; Jan. 28, 1918.)

Stamp tax on time drafts.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

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Wines.

Imported wines transferred in bond from port of entry to another port will be tax paid on removal from bond at last-named port. (T. D. 2387; Oct. 30, 1916.)

Imported or domestic still wines on which tax has been paid, but which when subsequently bottled become carbonated by secondary fermentation, are subject to tax as sparkling wines; where such change in wine is not produced by addition of sugar for purpose of starting secondary fermentation and is merely incidental to bottling, dealer in such case not regarded as producer; to avoid double taxation, additional tax found to be due may be paid by affixing such wines with label showing wines to have been bottled without treatment. (T. D. 2387; Oct. 30, 1916.)

Bonds securing payment of internal-revenue tax will not be required for imported wines, as such wines remain in custody of customs officers until such tax is paid. (T. D. 2387; Oct. 30, 1916.)

Tax on imported wines being payable on removal of wines from customhouse, such wines can not be transferred to bonded premises established under the wine act. (T. D. 2387; Oct. 30, 1916.)

Imported wines when removed from customhouse must be tax paid by stamp. (T. D. 2387; Oct. 30, 1916.)

No allowance can be made where shortage is discovered on imported wine after being tax paid; if shortage is discovered before removal from customhouse tax need be paid only on quantity removed. (T. D. 2387; Oct. 30, 1916.)

Importer of wines or his agent permitted as matter of convenience to affix required stamps to custom entry instead of stamping packages or cases containing such wines, upon the compliance with stated instructions; where importer prefers to stamp each package or case he may do so. (T. D. 2391; Nov. 6, 1916. T. D. 2414; Dec. 11, 1916.)

IMPORTER.

Definition.

An "importer," within Regulations No. 44, relating to war exercise taxes, is a person who causes an article to be brought into the United States from a foreign country; a retailer may be also an importer. (T. D. 2719; Art. II.)

IMPROVEMENTS.

Income taxes—Deductions.

Cost of erecting permanent buildings or of making permanent improvements on ground leased by company is an additional rental and may be deducted, provided such improvements, under terms of lease, revert to owner of ground at expiration of lease; in such case cost will be prorated according to number of years constituting term of lease and annual deduction will be aliquot part of such cost. (T. D. 2690; art. 140.)

Expenditures for incidental repairs which do not add to value nor appreciably prolong life of property are deductible as expenses by insurance companies other than mutuals, but including mutual life and mutual marine, but expenditures for new buildings, permanent improvements, or betterments, which increase value of property, or for restoring or replacing property, are not deductible; such expenditures are properly chargeable to capital account, to be extinguished through annual depreciation allowance. (T. D. 2690; art. 240.)

When improvements become part of real estate, difference between cost thereof and allowable depreciation during lease term is a gain or profit to lessor at end of lease term, and must be accounted for as income at that time. (T. D. 2690; art. 4.)

INCOME.

Definition.

"Income" means what has come in or receipts. (T. D. 2451; Feb. 20, 1917. Ct. Dec.)

The word "income," as used in the corporation excise tax act of 1909, imports something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax, conveying rather the idea of gain or increase arising from current activities. (T. D. 2723; June 4, 1918. Ct. Dec.)

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INCOME TAXES (CORPORATIONS).

Abatement claims.

See "Claims."

Acts published.

Income tax act of September 8, 1916, published. (T. D. 2360; Sept. 11, 1916.) Same act, as amended by act of October 3, 1917, and war income tax act of October 3, 1917, published, (T. D. 2549; Oct. 20, 1917. Note correction following T. D. 2571.)

Assessment of tax.

Under section 14 of the income-tax act, commissioner is without authority to make formal assessment of income tax unless liability therefor has been discovered within three years from date when return is due; this limitation does not, however, limit right of Government to claim and collect by suit or otherwise any additional tax found due for period antedating three-year limitation. (T. D. 2690; art. 233.)

Though Government may recover unpaid taxes by suit, it is desirable that collection be made as result of formal assessment, and in order that this may be done, corporations owing additional taxes for any period antedating the three-year limitation should file amended returns, together with statement formally waiving such limitation and consenting to assessment; in executing such amended returns or waivers, corporations forfeit none of their rights under the law, and no penalty is incurred which might not otherwise be enforced by suit. (T. D. 2690; art. 233.)

Claims for refund or abatement.

See "Claims."

Collection and payment—Abatement of tax.

It is duty of collector to use same diligence to collect tax after it has been abated as uncollectible, or as in suit, as before abatement; such abatement does not impair claim of Government against taxpayer. (T. D. 2690; art. 249.)

—— Action to collect.

Before distributing assets dissolving corporation should reserve funds sufficient to pay any income tax assessable against it; otherwise tax may be collected by suit against stockholders. (T. D. 2690; art. 205.)

There is no limitation upon right of Government to sue for and recover unpaid taxes; not essential that assessment be made, or, if made, that it be made within specified time; if liability to original or to additional tax exists or has been discovered, amounts thereof may be recovered by suit, regardless of fact that no assessment has been made, and regardless of date of its discovery or period for which tax is due. (T. D. 2690; art. 233.)

—— Advance payment.

Instructions with reference to time for making advance payments in installments or in whole, of income and excess-profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on Specified Forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

—— Certificates of indebtedness.

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand"; schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment

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Collection and payment—Continued.

—— **Certificates of indebtedness**—Continued.

of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from March 15, to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located and must be forwarded by registered mail; until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

Unmatured coupons attached to certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid"; coupons maturing on or before date tax is due must be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

—— **Nonresident alien corporation.**

Where actual owner of stock of domestic corporation or resident alien corporation is a nonresident alien corporation, return will be made regardless of the amount of dividend and the normal income tax will be paid, and when net income exceeds $5,000 said custodian shall also pay the additional tax on such income. (T. D. 2690; art. 32.)

—— **Payment by check—Bad checks.**

Taxpayers whose checks have been returned uncollected by depositary bank should be immediately notified to make checks good; if taxpayer fails to so so, collector should proceed to collect taxes by usual methods, as though no check had been given. (T. D. 2666; Mar. 8, 1918.)

In cases where checks have been returned uncollected by depositary banks, if recapitulation of assessment list for the month has not yet been sent to the Commissioner, original entry of payment should be canceled, and at the same time there should be noted in the "Remarks" column "Check returned unpaid; transferred to p. —, 1—," with the date, and the item should be reentered in the unpaid section of the list, with the notation "Transferred from p. —, 1—." There should be submitted in support of the new entry a copy of the collector's letter to the taxpayer with regard to the nonpayment of the check; if monthly recapitulation has gone forward, note should be made in the "Remarks" column, opposite the original entry. "Check returned unpaid," with the date. (T. D. 2666; Mar. 8, 1918.)

Where check for which certificate of deposit to credit of Treasurer of the United States has been issued is returned to depositary bank unpaid, collector will be propmply notified and check held for few days, during which time collector should make effort to recover amount from taxpayer; if amount is recovered, collector should immediately turn it over to depositary in exchange for bad check, which should be returned to the drawer, but if amount is not recovered within reasonable time, depositary will return check with letter of transmittal and ask receipt from collector, which receipt should be given in duplicate, and depositary will charge amount to Treasurer's account in next daily transcript. (T. D. 2666; Mar. 8, 1918.)

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Collection and payment—Continued.

—— **Payment by check—Bad checks**—Continued.

Where check deposited in collection account is returned unpaid, and no certificate of deposit on Form 15 covering the amount thereof has been issued, amount of check will be charged by depositary to the collection account, after being held in a suspense account for a few days while an effort is made to recover amount from taxpayer. (T. D. 2666; Mar. 8, 1918.)

—— —— **Collection at par.**

All checks in payment of income taxes must be collectible at par (without any deduction); taxpayers who are not sure that their checks will be paid at par should be advised to write beneath the amount "without deduction for exchange," or "with exchange;" collector not required to examine all checks to see whether they are collectible at par; if bank on which check is drawn refuses to pay it at par, it will be returned through depositary bank, and should be treated in same manner as a bad check. (T. D. 2666; Mar. 8, 1918.)

—— —— **Monthly and quarterly accounts.**

Instructions with reference to preparation of monthly and quarterly accounts in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; Mar. 8, 1918.)

—— —— **Out-of-town check.**

All out-of-town checks for which depositary bank is unwilling to issue immediate certificate of deposit to credit of Treasurer of United States, should be deposited separately in collection account, as provided in T. D. 2627; collection account will be charged and Treasurer's general account credited by issuance of certificate of deposit on Form 15. (T. D. 2666; Mar. 8, 1918.)

—— —— **Posting records.**

Instructions with reference to posting records 1 and 9 in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; March 8, 1818.)

—— —— **Uncertified checks.**

If uncertified check, accepted by collectors, is not paid, person by whom it has been tendered remains liable for tax; such uncertified checks as depositary bank is willing to accept should be included in certificate of deposit issued to collector; all other certificates will be carried by collector as "cash on hand"; date on which collector receives check considered date on which payment is made unless check is returned dishonored; such uncertified checks as bank is not willing to accept for immediate credit may be deposited for collection, and when collection is made proceeds should be immediately deposited with other collections for the day, collector charging his account "cash on hand," and crediting taxpayer from whom check was received. (T. D. 2627; Dec. 28, 1917.)

—— **Penalties for nonpayment.**

Upon failure to pay tax when due and for 10 days after notice and demand, penalty of 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month until paid shall be added to amount of tax, and to amount assessable on basis of net income there shall be added 50 per cent in case of refusal or neglect to make return, and 100 per cent in case of false or fraudulent return, and corporation so offending shall be liable to specific penalty not exceeding $10,000. (T. D. 2690; art. 231.)

If tax assessed on undistributed net income by section 10 (b) of the act of September 8, 1916, as amended, is not paid within 10 days after date of notice and demand therefor, collector must collect said tax with penalty of 5 per cent additional upon amount thereof and interest at rate of 1 per cent a month. (T. D. 2736; June 18, 1918.)

—— **Status of tax.**

Tax due on income has status of a debt due to the United States; persons receiving property charged with such indebtedness must answer for the debt. (T. D. 2690; art. 39.)

A tax is not a debt and the Government is not a creditor in a strict sense. The obligation is of a higher nature than a debt. (T. D. 3043; July 2, 1920. Ct. Dec.)

Distributees without consideration of corporate assets, as stockholders in case of dissolution, are liable to extent of the distribution for corporate tax under the trust-fund doctrine. (T. D. 3043; July 2, 1920. Ct. Dec.)

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Collection and payment—Continued.

—— **Time of payment.**

Where office of insurance company to which collector addressed notice and demand, on Form 17, is situated so far from collector's office that normal conditions render it impossible for payment to reach collector within 10 days of mailing of notice and demand collector requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that payments should be received in ordinary course of mails, and where it appears that full amount of tax was placed in mails within 10-day period, or in case notice is not delivered in due time by reason of delay in mail, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

Where returns are made on basis of calendar year corporations against which taxes are assessed shall be notified of the amount thereof on or before June 1 of each successive year, and taxes shall be paid on or before June 15 of year in which assessment is made; corporation making returns on basis of fiscal year other than calendar year shall be notified of amount assessed against it on or before last day of 90-day period next following date when return was due, and taxes shall be paid within 105 days from due date of the return. (T. D. 2690; art. 230.)

Where additional assessments are made as result of examination or audit of returns taxpayer shall, immediately following making of assessment, be notified of amount thereof, and such taxes shall be paid within 10 days from date of such notice. (T. D. 2690; art. 230.)

—— —— **Extension.**

Any extension granted by collector or commissioner of time within which to file returns will not be construed to correspondingly extend the time for payment of tax; if for any reason return should not be made until time fixed by law for payment of tax has passed, tax assessed on basis of such return shall be paid upon notice and demand. (T. D. 2690; art. 230.)

—— **Voluntary payment when past due.**

If corporation against which additional tax liability is discovered formally accepts findings of examining officer and agrees to voluntarily pay additional tax and does so pay additional tax, amended returns or waivers will not be required. (T. D. 2690; art. 234.)

Constitutional provisions.

The sixteenth amendment to the Constitution of the United States does not extend the taxing power to new or excepted subjects, but merely removes all occasion which otherwise might exist for an apportionment among the States of taxes laid on income, whether it be derived from one source or another. (T. D. 2726; June 4, 1918. Ct. Dec.)

Under the sixteenth amendment to the Constitution, Congress has power to tax as income without apportionment, everything that became income in the ordinary sense of the word after the adoption of the amendment. (T. D. 2731; June 11, 1918. Ct. Dec.)

Deductions.

See "Net income," *post*.

Definitions—"Common-law partnerships."

Common-law partnerships are not associations within the meaning of the income-tax law. (T. D. 2690; art. 63.)

—— "Corporation."

"Corporation" or "corporations," as used in Regulations No. 33, construed to include all corporations, joint-stock companies and associations, and all insurance companies coming within the terms of the law, as well as all business trusts organized or created to engage in commercial or industrial enterprises, capital of which is evidenced by certificates or shares of interest issued or issuable to members on the basis of which profits are distributed or distributable. (T. D. 2690; art. 57.)

—— **"Joint-stock companies or associations."**

Term "joint-stock company or association," as used in Regulations No. 33, includes associations, common-law trusts, or organizations by whatever name known which carry on or do business in an organized capacity, net income of which, if any,

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Definitions—Continued.

—— **"Joint-stock companies or associations"**—Continued.

is distributed or distributable among members or shareholders on basis of capital stock which each holds, or, where there is no capital stock, on basis of proportion, share or capital which each has, or has invested, in business or property of organization. (T. D. 2690; art. 58.)

—— **"Limited partnerships."**

Limited partnership is partnership having one or more special partners who may share in profits of firm but whose liability for debts of company is limited to amount of capital invested by such special partner or partners. (T. D. 2690; art. 62.)

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

—— **"Political subdivision."**

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of these functions of State which by long usage and inherent necessities of government have always been regarded as public; the term includes special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

—— **"Taxable year" or "taxable period."**

The terms "taxable year" or "taxable period," as and when used in Regulations No. 33, mean the calendar or duly established fiscal year or period for which the return is made or is required to be made. (T. D. 2690; art. 59.)

—— **"Title."**

The term "this title," as used in Regulations No. 33, means Title I of the act of September 8, 1916, as amended by the act of October 3, 1917. (T. D. 2690; art. 59.)

Exemptions of corporations—Agricultural organizations.

Agricultural organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Agricultural organizations do not include corporations engaged in growing agricultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

—— **Boards of trade.**

Boards of trade are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

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Exemptions of corporations—Continued.

—— **Building and loan associations.**

Domestic building and loan association exempt is one organized under and pursuant to laws of United States or of some State or Territory thereof, and which is actually carrying on for benefit of its members a building and loan association business in accordance with such laws; fact that association issues fully paid or prepaid shares, calling for specified rate of interest or dividends, will not disqualify it for exemption; exemption is without qualification other than that association is a domestic building and loan association; if corporation by any other name is carrying on an exclusive building and loan business, before it is entitled to exemption it must show to satisfaction of Commissioner of Internal Revenue that it is in fact a building and loan association. (T. D. 2690; art. 70.)

Domestic building and loan associations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

—— **Business leagues.**

Business leagues are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Cemetery companies.**

Cemetery companies are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Cemetery company having capital stock represented by shares, or which is operated for profit or for benefit of others than its members, or has a reserve set aside out of profits, is not exempt. (T. D. 2690; art. 71.)

—— **Chambers of commerce.**

Chambers of commerce are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Charitable organizations.**

Corporations of associations organized and operated exclusively for charitable purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Civic leagues.**

Civic leagues are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Claim.**

In order that fraternal beneficiary societies, mutual insurance companies, etc., may be exempted, it is not sufficient that they merely claim exemption, but it must be shown by affidavit or otherwise to satisfaction of Commissioner of Internal Revenue that conditions set forth in exempting provisions have been fully met. (T. D. 2690; art. 239.)

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Exemptions of corporations—Continued.

—— Clubs.

Clubs are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— Conditional.

Corporations or associations organized and operated exclusively for religious, charitable, etc., purposes, business leagues, chambers of commerce, civic leagues, etc., are not, as such, exempt from the requirements of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917; their exemption is conditional upon their filing with collector affidavits setting out character and purpose of organizations, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraphs under which exemption is claimed. (T. D. 2690; art. 67.)

In every instance wherein exemption is conditional upon ground that no part of net income received by corporations inures to benefit of private stockholder or individual, such organization, to be classed as exempt, must show to satisfaction of collector or Commissioner of Internal Revenue, the character and purpose of the organization, source from which all its income is derived, what disposition is made of such income, and whether or not any of it is credited to surplus or inures or may inure to benefit of any private stockholder or individual. (T. D. 2690; art. 78.)

Collectors of internal revenue required to keep list of all corporations whose exemption is conditional, to end that they may occasionally inquire into their status and ascertain whether or not they are violating conditions upon which their exemption is predicated. (T. D. 2690; art. 80.)

Exemption from filing returns and paying income tax of corporations or associations organized exclusively for religious, charitable, scientific, or educational purposes, business leagues, chambers of commerce, boards of trade, civic leagues, cemetery companies, and pleasure and recreation clubs, is conditional upon such organizations filing affidavits showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

—— Cooperative organizations.

Cooperative associations, in order to come within the exemption provided in paragraph eleventh of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that, for their own account, they have no net income, business being to market products of their members, and that entire proceeds of such marketing, less necessary selling expenses, are turned back or paid to members on basis of quantity of produce furnished by them—quality and grade being considered—as purchase price of such produce; if such associations purchase for cash articles of produce with view to selling for gain, it will be held that such associations are organized for profit and they will be held taxable. (T. D. 2690; art. 75.)

Cooperative societies, associations or corporations which make periodical refund to members or to prospective members or to patrons generally, in proportion to purchases made by recipient, are not within any of the exceptions or exemptions of act of September 8, 1916 as amended by act October 3, 1917, and are subject to its provisions. (T. D. 2737; June 19, 1918.)

—— Dairy associations.

Cooperative dairy companies or associations, not having capital stock and engaged in collecting milk and disposing of same or products thereof, and distributing proceeds of business, less necessary operating expenses, among their patrons, upon basis of quantity of butter fat in milk furnished by such patrons, are exempt from

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Exemptions of corporations—Continued.

—— **Dairy associations**—Continued.

tax; if company purchases milk at stipulated price and disposes of same, or its products, at a profit, and such profit inures to benefit of company or its members, on any basis other than butter-fat content of milk furnished, such company will come within requirements of law and will be subject to tax. (T. D. 2690; art. 76.)

—— **Educational organizations.**

Corporations or associations organized and operated exclusively for educational purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Farmers' associations.**

Farmers', fruit growers', or like association, organized and operated as a sales agent to market products of its members, in order to come within the exemption provided in paragraph "eleventh" of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that, for their own account, they have no not income, and that entire proceeds of marketing products of their members, less necessary selling expenses, are turned back or paid to members on basis of quantity of produce furnished by them—quality and grade being considered—as purchase price of such produce. (T. D. 2690; art. 75.)

—— **Federal land banks.**

Federal land banks are exempted from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

—— **Fraternal societies.**

Fraternal beneficiary society, order or association operating under lodge system or for exclusive benefit of members of a fraternity itself operating under lodge system is exempt from tax, without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Fraternal life insurance has been exempted from all income taxation because, as originally devised, it had in it only the element of protection. The premiums paid by the member were supposed to be sufficient, and only sufficient, to pay the losses which fell within the current year. (T. D. 3046; July 19, 1920. Ct. Dec.)

Congress exempted certain cooperative enterprises from all income taxation, but, with the exception of fraternal beneficiary societies, it imposed in express terms such taxation upon "every insurance company." (T. D. 3046; July 19, 1920. Ct. Dec.)

—— **Horticultural organizations.**

Horticultural organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Horticultural organizations do not include corporations engaged in growing horticultural products or raisng live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

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Exemptions of corporations—Continued.

—— **Joint-stock land banks.**

Joint-stock land banks are exempt from tax without condition as to income specified in the law; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

—— **Labor organizations.**

Labor organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

—— **Lists.**

Collectors of internal revenue required to keep list of all corporations whose exemption is conditional, to end that they may occasionally inquire into their status and ascertain whether or not they are violating conditions upon which their exemption is predicated. (T. D. 2690; art. 80.)

—— **Lodges.**

A society or association "operating under the lodge system" is one organized under a charter or dispensation with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals; an order, society, or association coming within this definition is exempt from requirements of income tax law. (T. D. 2690; art. 77.)

Society or association "operating under the lodge system," which is exempted under the provisions of the income tax act, is considered to be one organized under a charter with properly appointed or elected officers with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by dues, fees, or assessments. (T. D. 2690; art. 239.)

—— **Mutual insurance companies, etc.**

Organizations mentioned in paragraph "Tenth" of section 11, act of September 8, 1916, as amended, are specifically exempt, provided that their entire income consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organizations have income from any source other than assessments, dues and fees such income will be held subject to tax, and organizations receiving same must make returns and pay any tax thereby shown to be due. (T. D. 2690; art. 69.)

Mutual savings banks not having capital stock represented by shares are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

A corporation, organized to insure its members, limited to jewelers and dealers in goods ordinarily carried in the jewelry trade, against loss or damage by fire, theft, barratry, embezzlement, and transportation, which requires each member to deposit in advance a definite sum sufficient to cover estimated losses and expenses for the ensuing year, the balance of such deposits being returned to members, is a mutual fire insurance company and subject to the taxes imposed by the act of October 3, 1913. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

—— **National farm loan associations.**

National farm loan associations organized pursuant to act of July 17, 1916, are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

—— **Pleasure and recreation clubs.**

Pleasure and recreation clubs are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Public utilities.**

Public utilities whose income inures to benefit of any State, Territory, or political subdivision thereof are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2 690; art. 68.)

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Exemptions of corporations—Continued.

—— **Religious organizations.**

Corporations or associations organized and operated exclusively for religious purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Scientific organizations.**

Corporations or associations organized and operated exclusively for scientific purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to pomote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

—— **Social clubs.**

Social clubs are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Social clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes are exempt from tax, provided no part of any net income inures to benefit of any private stockholder or individual; this exemption reaches practically all social and recreation clubs supported by membership fees, dues, and assessments; if a club, by reason of comprehensive powers granted in its charter, engages in any business for profit, it will be held that such club is not a social club, it thus becoming a business or commercial enterprise and any profit realized is subject to tax. (T. D. 2690; art. 72.)

—— **Unconditional.**

Among corporations exempt from tax, without condition, are labor, agricultural, and horticultual organizations, mutual savings banks not having capital stock represented by shares, fraternal beneficiary societies or associations operating under lodge system or for exclusive benefit of members of fraternity itself operating under lodge system, domestic building and loan associations, Federal land banks, and national farm loan associations, organized pursuant to the act of July 17, 1916, joint-stock land banks as to income specified in the law, and public utilities whose income inures to benefit of any State, Territory, or political subdivision thereof; corporations exempt under act of September 8, 1916, are also exempt from tax under Title I of the act of October 3, 1917. (T. D. 2690; art. 68.)

Exemptions of income—Federal reserve bank dividends.

Exemption provided for in Federal reserve statute, section 3, of the act of October 22, 1914, attaches to and follows income derived from dividends on stock of Federal reserve banks into hands of stockholders, that is to say, dividends received on stock of such banks, are exempt from taxes imposed by acts of September 8, 1916, as amended, and of October 3, 1917; this ruling does not contemplate that dividends paid by member banks are exempt from the 2 per cent tax, but such dividends, in so far as they may be received by other corporations, may be treated as a credit against net income in computing the war income tax imposed by Title I of the act of October 3, 1917. (T. D. 2690; art. 86.)

—— **Fiscal year ending during 1916.**

The provision of section 25 of the income-tax act is intended to exclude from taxable income under Title I of the act, any income received after Janury 1, 1916, which, in returns for periods prior to that date, has been accounted for on an accrual basis, and on which tax has been assessed and paid; that is to say. any income returned upon which tax imposed by act of October 3, 1913, had been assessed though actually received subsequent to January 1, 1916, is not subject to the tax imposed by Title I. (T. D. 2690; art. 235.)

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Exemptions of income—Continued.

—— **Foreign Governments.**

Section 30 of the act of September 8, 1916, as amended by the act of October 3, 1917, does not exempt from tax any income collected by foreign Governments from investments in the United States in stocks, bonds, or other domestic securities, which are not bona fide owned by but are loaned to such foreign Government. (T. D. 2690; art. 87.)

—— **Insurance companies.**

All interest received on obligations of United States or its possessions or on obligations of a State, or any political subdivision thereof, should be eliminated in ascertaining gross income; accrued interest on bonds purchased must not be included in amount eliminated from gross income; in case of obligations of United States issued after September 1, 1917, income therefrom is exempt from tax only to extent provided in the act authorizing their issue, and income from such obligations received by insurance companies is exempt from 2 per cent and 4 per cent tax. (T. D. 2690; art. 239.)

—— **Political subdivisions.**

Interest upon obligations of State or any political subdivision thereof is exempt; obligations issued for public purpose by or on behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of those functions of State which by long usage and inherent necessities of Government have always been regarded as public; the term includes special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

—— **State obligations.**

Interest upon obligations of State or any political subdivision thereof is exempt; obligations issued for public purpose by or in behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

—— **Time of accrual of income.**

It is evident purpose of act of October 3, 1913, to refrain from taxing income that accrued prior to March 1, 1913, and to exclude from consideration in making computation of taxable income for given year any income that accrued in the preceding taxable year. (T. D. 2730; June 11, 1918. Ct. Dec.)

—— **Undistributed net income.**

See "Net income —— Undistributed net income," *post*.

Corporations, joint-stock companies and associations, and insurance companies which are exempt under the provisions of section 11 (a) of the act of September 8, 1916, from tax upon total net income are not taxable upon undistributed net income under section 10 (b). (T. D. 2736; June 18, 1918.)

—— **United States obligations.**

Section 1200 of the act of October 3, 1917, so amends section 4 of the act of September 8, 1916, as to exempt interest on obligations of United States issued after September 1, 1917, only if and to extent provided in act authorizing their issue; income from bonds and certificates issued under the act of September 24, 1917, is exempt from war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

When income of partnership is taxable to individual partners, as under present income-tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess-profits tax law, partnership is treated as owner of Liberty loan bonds held

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Exemptions of income—Continued.

—— **United States obligations**—Continued.

by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription. for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

Corporation and not stockholders is regarded as owner of Liberty loan bonds held by a corporation and entitled to exemption on account of such ownership; when bonds of Fourth Liverty Loan are subscribed for by corporation it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762; Oct. 18, 1918.)

Circular, issued under date of April 23, 1919, with reference to tax exemptions of Liberty bonds and Victory notes, published for information of internal-revenue officers and others concerned. (T. D. 2836; May 7, 1919.)

For purposes of additional tax exemption for Liberty bonds granted by section 2 (b) of the Victory Liberty loan act, approved March 3, 1919, Victory notes of either series issued upon conversion of Victory notes of the other series which were originally subscribed for by any taxpayer will be deemed to have been originally subscribed for by such taxpayer. (T. D. 2857; June 7, 1919.)

Interest accrued on 4¾ per cent Victory notes at date of conversion by taxpayer into 3¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest on 4¾ per cent Victory notes, and will be entitled only to exemptions from taxation to which interest on 4¾ per cent Victory notes is entitled; amounts received by taxpayer from United States by way of adjustment of accrued interest upon conversion of 4¾ Victory notes will be deemed to be interest on 4¾ per cent Victory notes. (T. D. 2865; June 14, 1919.)

All interest accrued on 3¾ per cent Victory notes at date of any conversion by taxpayer into 4¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest upon 3¾ per cent Victory notes, and will be entitled to exemptions from taxation to which interest upon 3¾ per cent Victory notes is entitled. (T. D. 2865; June 14, 1919.)

Foreign corporations—Source within United States.

Not necessary that foreign corporation shall be engaged in business in this country or that it have office, branch or agency in United States, in order to be subject to tax imposed by the act of October 3, 1917; liability attaches with respect to income, source of which is in United States, "source" being used here as meaning place of origin of the income. (T. D. 2690; art. 66.)

—— **Taxable income.**

Under section 10 of Title I of the act of September 8, 1916, as amended, tax of 2 per cent shall be levied, assessed, collected, and paid annually upon total net income received in preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under laws of any foreign country. (T. D. 2690; art. 64.)

—— **War tax.**

Additional tax of 4 per cent on net income imposed by the act of October 3, 1917, shall apply to foreign corporations in same manner as in case of domestic corporations, except that it shall apply only to income received from sources within United States. (T. D. 2690; art. 65.)

Gross income—Accretions.

Any accretions to reserve set aside out of profits of cemetery company as a "maintenance fund" will be held to be income, and, as such, must be returned by the corporation. (T. D. 2690; art. 71.)

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Gross income—Continued.

—— Bad debts recovered.

Bad debts or accounts charged off because of fact that they were determined to be worthless, and subsequently recovered, constitute income for year in which recovered, regardless of date when amounts were charged off; neither date at which debt was charged off nor fact that it was or was not deducted from gross income in return made will in any way affect its character as income of year in which recovered. (T. D. 2690; art. 110.)

—— Banks, etc.

Gross income of banks and other financial institutions consists of the total revenue received within the year for which return is made from operation of business, including income, gains, or profits, from sale of capital assets and from all other sources in cases where securities or other assets, real, personal, or mixed, acquired prior to March 1, 1913, are disposed of during year, gain or loss thereon will be based upon difference between price at which disposed of and fair market price or value of such assets as of March 1, 1913, or difference between price at which disposed of and the cost if acquired subsequent to that date. (T. D. 2690; art. 90.)

—— Cessation of business.

Fact that corporation has ceased to engage in business for which it was originally organized will not relieve it from liability to income tax; if it has or may have income directly or indirectly from any source it must make return, account for all such income, and pay any tax assessable on such income. (T. D. 2690; art. 102.)

—— Contracting corporations.

Contracting corporations which have numerous uncompleted contracts, which in some cases run for period of several years, will ascertain gross income on basis of completed work—that is, on jobs which have been finally completed, and any and all moneys received in payment for completed jobs will be returned as income for year in which work was completed. (T. D. 2690; art. 121.)

In the case of corporations engaged in contracting operations and which have numerous uncompleted contracts, which in some cases run for periods of years, percentage of profit from contract may be estimated on basis of percentage of completion and payments made thereon, in which case income to be returned each year during performance of contract will be computed upon basis of expenses incurred on such contract during the year; all under or over statements of income to be adjusted upon completion of contract and return made accordingly; where contracts are fully performed in one year, income resulting from performance shall be returned for year in which actually earned and determined. (T. D. 2690; art. 121.)

—— Damages recovered.

When corporation as result of suit or otherwise secures payment for damages which it may have sustained, and amount of such payment is in excess of an amount necessary to make good the damage or damaged property, amount of such excess shall be considered and returned as income for year in which received; if entire or estimated amount of damage shall have been previously charged off and deducted from gross income, then amount recovered shall be returned as income; if amount recovered is less than damage sustained, or less than amount necessary to make good the damage, difference between actual amount of damage sustained and amount recovered will be deductible as a loss. (T. D. 2690; art. 94.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to income and war income taxes. (T. D. 2706; Apr. 25, 1918.)

—— —— Replacement fund.

Although intention or obligation of owner of property requisitioned for war uses or lost or destroyed through war hazards may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund," in which entire amount of compensation shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

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Gross income—Continued.

—— **Damages recovered**—Continued.

—— —— **Replacement fund**—Continued.

Where property requisitioned, lost, or damaged constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

—— **Definition.**

Gross income embraces not only operating revenues but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations; also profits made in other corporations; also profits made from sale of assets, investments, etc. (T. D. 2690; art. 88.)

—— **Discounts.**

Where banks or other corporations loan money by discounting bills or notes, one of two methods shall be used in determining amount of discount to be reported as income, namely, (1) if bank or corporation makes practice of crediting discount directly to "discount account" or to profit and loss, total amount thus credited during year shall be considered income, regardless of fact that portion may represent discount paid in advance; (2) if bank or corporation follows practice of crediting discount to "unearned discount account," and later, as discount becomes earned, debits unearned account and credits "earned discount account" with amount so earned, total amount credited to "earned discount account" during year shall be considered income. (T. D. 2690; art. 114.)

—— **Dividends.**

Gross income from sources within United States, as applied to foreign corporations, includes income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies, subject to tax under Title I of the act of September 8, 1916, as amended by the act of October 3, 1917. (T. D. 2690; art. 89.)

Corporation must include in income dividends on stock and interest on bonds or other interest-bearing obligations received from other corporations; such dividends are, however, not subject to war income tax of 4 per cent. (T. D. 2690; art. 105.)

Term "dividends" held to mean any distribution made or ordered to be made by a corporation, joint-stock company or association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its shareholders whether in cash or in stock of the corporation, joint-stock company or association, or insurance company, which stock dividend shall be considered income, to amount of earnings or profits so distributed. (T. D. 2690; art. 106.)

Any distribution made to shareholders in the year 1917 or subsequent years (except any distribution of dividends made prior to August 6, 1917, out of earnings or profits accrued prior to Mar. 1, 1913) shall be deemed to be made from most recently-accumulated undivided or surplus profits, and shall constitute income of distributee for year in which received, and shall be taxed at rates prescribed by law for years in which such surplus or profits were earned by distributing corporations. (T. D. 2690; art. 107.) See also T. D. 2659, Feb. 28, 1918, and T. D. 2734, June 7, 1918.

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Gross income—Continued.

——Donations of capital stock.

Where, to enable corporation to secure working capital, or for any other purpose, stockholders donate or return to corporation to be resold by it, certain shares of stock of company previously issued to them, resale will be considered a capital transaction and proceeds will be treated as capital and will not constitute income to the corporation. (T. D. 2690; art. 99.)

—— Excess value.

Where corporation acquires property prior to March 1, 1913, for mere nominal sum and which had, as of March 1, 1913, a value greatly in excess of such sum, careful estimate of fair market value as of March 1, 1913, may be set up as capital invested, and if property is thereafter disposed of at price in excess of such market value, excess will be treated as income to be accounted for in return of annual net income of year in which property is sold; value so fixed subject to approval of Commissioner of Internal Revenue; where property was acquired subsequent to March 1, 1913, amount for which later sold or disposed of in excess of cost price will constitute income for year in which property was disposed of. (T. D. 2690; art. 112.)

—— Exchange of property for stock.

Where property was taken over in exchange for capital stock at par value in excess of fair market value of property, and such property later sold, necessary to ascertain as nearly as possible fair market value of property at time taken over as of March 1, 1913, if acquired before that date, and any excess over this ascertained fair market value will be held to be profit or income for year in which sale was made. (T. D. 2690; art. 111.)

—— Exchange of stock.

Where corporation acquires from stockholders stock of another corporation, giving in exchange therefor its own stock, transaction is one by which corporation acquiring stock becomes sole stockholder of other corporation, and no income accrues to corporation whose stock is thus acquired; neither will any income accrue to this corporation if later the holding corporation should cause assets of underlying company to be transferred to it for mere nominal consideration. (T. D. 2690; art. 124.)

—— Farming corporations.

Corporations engaged in operating plantations, ranches, stock farms, poultry farms, and lands used for raising fruit, truck, etc., including orchards of all kinds, shall make their returns on the basis of the products actually marketed and sold during the year, whether such products were produced or purchased, and resold. (T. D. 2690; art. 123. See T. D. 2665; Mar. 8, 1918.)

—— Installment sales of property.

Where corporation sells property on installment plan, title passing at time of sale, gain to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

Corporation selling merchandise in installment basis, title passing to vendee at time of sale, will treat such contracts as accounts receivable and as sales during the year at their face value, accounting for as income the difference between the cost and sales price. (T. D. 2690; art. 120.)

In all cases where inventories are taken for purpose of ascertaining gain or loss resulting from business of the year, inventories must be taken in accordance with instructions to be included in special regulations furnished upon application to collector of internal revenue. (T. D. 2690; art. 120.)

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if, for any reason, vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned, for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

—— Insurance companies.

Gross income consists of total revenue derived from operation of business, including income, gains, or profits from all other sources within calendar year for which return is made, except as modified by special provisions of law which apply to in-

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Gross income—Continued.

—— **Insurance companies**—Continued.

surance companies; gross income will include net premiums, investment income, income from sale of capital assets, all gains, profits, and income as reported to State insurance departments, except items specifically exempted in the act as construed by Regulations No. 33. (T. D. 2690; art. 239.)

All policy premiums, on which net addition to reserve is computed, must be included in gross income of insurance companies other than mutuals, but including mutual life and mutual marine; net addition may be based upon highest authorized reserve by statutes of any State in which company does business; when reserve at end of year is less than at beginning, there is a "released reserve," and amount so released must be included in gross income; in case of assessment insurance companies, whether domestic or foreign, actual deposits of sums with State or Territorial officers, pursuant to law, as additions to guaranty or reserve funds, shall be treated as being payments required by law to reserve funds; in case of life insurance companies net addition to "reinsurance reserve" and "reserve for supplementary contracts," and in case of fire, marine, accident, liability, and other insurance companies, net addition to "unearned-premium reserves," and only such other reserves as are specifically required by State statutes will be allowed as deductions. (T. D. 2690; art. 240.)

Life insurance companies may exclude from gross income any part of premiums received which is paid back to individual policyholder within same return year; where dividend is in excess of premium received, there can be excluded only amount of premium received from such individual policy holder within same return year. (T. D. 2690; art. 241.)

Divends provisionally ascertained, apportioned, or credited on deferred dividend policies can not be excluded or deducted for reason that assured has no vested or enforceable right in them and can not, at time of ascertainment, apportionment or credit, nor until maturity of policy, avail himself of such dividends; and in event of death of assured prior to expiration of deferred dividend payment, amount so ascertained, apportioned, or credited, lapses. (T. D. 2690; art. 241.)

Life insurance companies may omit from gross income such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to policyholder or treated as an abatement of his premium; amount authorized to be excluded from gross premium income on account of any premium refunded to individual policyholder is explicitly limited to an amount not in excess of actual premium paid by individual policyholder within tax year. (T. D. 2690; art. 241.)

Gross income of life insurance companies should include surrender values applied in any manner, consideration for supplementary contracts involving life contingencies, and all other income, gains, or profits; applied surrender values and consideration for supplementary contract, not involving life contingencies included in income will be deducted as payments under policy contracts; but for convenienc in verifying returns these items should appear in return in both gross income and deductions. (T. D. 2690; art. 241.)

Gross income consists of total revenue derived from operation of business, but excluding all income received from premiums, assessments, fees, and other amounts paid by policyholders necessary to secure or continue policies in force; where portion of funds thus received is retained or finally used for any purpose other than payment of losses, expenses, or reinsurance reserves, such portion is taxable and must be returned as income. (T. D. 2690; art. 242.)

It is of the essence of mutual insurance that excess in premium over actual cost as later ascertained shall be returned to the policyholder. (T. D. 3046; July 19, 1920. Ct. Dec.)

Section II G (b) of the act of October 3, 1913, excludes from gross income those premium receipts which are actually or in effect paid by applying dividends. (T. D. 3046; July 19, 1920. Ct. Dec.)

Congress used the words "shall not include" (Sec. II G (b), act October 3, 1913), as applied to the annually ascertained overpayments of premium paid back or credited to the policyholder because it eliminated them from the aggregate of taxable premiums as being the equivalent of abatement of premiums. (T. D. 3046; July 19, 1920. Ct. Dec.)

The noninclusion clause in Section II G (b) of act of October 3, 1913, was framed to define what amounts involved in dividends should be "nonincluded" or deducted, and thus to prevent any controversy arising over the questions which had been raised under the act of August 5, 1909. (T. D. 3046; July 19, 1920. Ct. Dec.)

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Gross income—Continued.

—— **Insurance companies**—Continued.

Congress has acted with entire consistency in laying down the rule by which in computing gross earnings certain amounts only are excluded. The principle applied is that of basing the taxation on receipts of net premiums, instead of on gross premiums. The amount equal to the aggregate of certain dividends is excluded, although they are dividends, because by reason of their application the net premium receipts of the tax year are to that extent less. (T. D. 3046; July 19, 1920. Ct. Dec.)

Fraternal life insurance has been exempted from all income taxation because, as originally devised, it had in it only the element of protection. The premiums paid by the member were supposed to be sufficient, and only sufficient, to pay the losses which fell within the current year. (T. D. 3046; July 19, 1920. Ct. Dec.)

The dividend of a life insurance company is made possible because the amounts paid in as premium have earned more than it was assumed that they would when the policy contract was made, or because the expense of conducting the business was less than it was then assumed it would be, or because the mortality—that is, the deaths in the class to which the policyholder belongs—proved to be less than had been assumed in fixing the premium rate. (T. D. 3046; July 19, 1920. Ct. Dec.)

After a policy is paid up the element of investment predominates and Congress might reasonably regard the dividends substantially as profit on the investment. (T. D. 3046; July 19, 1920. Ct. Dec.)

In the case of a deferred dividend policy the dividend represents in part what clearly could not be regarded as a repayment of excess premium of the policyholder receiving the dividend, for the "share of the forfeiture" which he receives is the share of the redundancy in premium of other policyholders who did not persist in premium payments to the end of the contract period. (T. D. 3046; July 19, 1920. Ct. Dec.)

Congress exempted certain cooperative enterprises from all income taxation, but, with the exception of fraternal beneficiary societies, it imposed in express terms such taxation upon "every insurance company." (T. D. 3046; July 19, 1920. Ct. Dec.)

The participating policies commonly issued by stock life insurance companies are, both in rights conferred and in financial results, substantially the same as the policies issued by purely mutual life insurance companies. (T. D. 3046; July 19, 1920. Ct. Dec.)

Under paragraph G, subdivision (b), Section II, act of October 3, 1913, life insurance company is not entitled to exclude from total income during taxable year, for purpose of ascertaining gross income, any dividends paid or credited to policyholders from whom it did not receive any premium during that year; as to policyholders from whom it did receive premiums it is entitled to exclude only such part of dividends paid as did not exceed amount received from them, respectively, by way of premiums during that year. (T. D. 2899; July 24, 1919. Ct. Dec.)

The premium receipts of "every insurance company" by whatever name they are called are, unless specifically exempted by the terms of the taxing statutes in question, a part of such company's gross income. (T. D. 3078; Oct. 13, 1920, Ct. Dec.)

Premium deposits made in advance by members of a mutual insurance company to cover estimated losses and expenses are, so long as the payment thereof constitutes the consideration for contract of insurance, insurance premiums constituting gross income of the company. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Moneys received by way of interest upon bank balances and from investment of such portion of premium deposits as are not currently required for the payment of losses and expenses are profits earned by an insurance company subject to tax. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

—— —— **Foreign companies.**

Insurance companies organized, authorized, or existing under laws of any foreign Government shall report as gross income gross amount received within year from all sources within United States or its possessions; income from business transacted by United States branch or agency of foreign company which relates to foreign country, must be returned as gross income; otherwise articles of Regulations No. 33, applicable to insurance companies in general, will be followed as to income and deductions; companies not transacting insurance business in United States or its possessions, but receiving income from investments therein, must make returns of such income, deducting therefrom amount of such income withheld at source. (T. D. 2690; art. 244.)

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Gross income—Continued.

—— **Interest.**

Gross income from sources within United States, as applied to foreign corporations, includes interest received on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise. (T. D. 2690; art. 89.)

Interest received on all United States bonds and certificates exempt from normal income tax need not be included in gross income in return made for purpose of the 2 per cent tax or the 4 per cent tax, but interest on bonds and certificates issued under the act of September 24, 1917, in excess of interest on $5,000 aggregate principal amount of such bonds and certificates must be included in net income upon which war excess-profits tax is computed. (T. D. 2690; art. 100.)

Corporation must include in income dividends on stock and interest on bonds or other interest-bearing obligations received from other corporations; such dividends are, however, not subject to war income tax of 4 per cent. (T. D. 2690; art. 105.)

Interest received on bonds held, whether guaranteed to be tax-free or not, must be included in income and must be accounted for in return of annual net income; matter of complying with covenant of bond is matter to be adjusted between debtor corporation and the bondholder. (T. D. 2690; art. 122.)

—— **Leased properties.**

Fact that corporation has conveyed or let its property will not relieve it from liability to tax; if it has or may have income directly of indirectly from any source it must make return, account for all such income, and pay tax assessable thereon. (T. D. 2690; art. 102.)

Where corporation leases property in consideration that lessee pay in lieu of rental an amount equivalent to certain rate of dividend on capital stock or interest on outstanding indebtedness, togerher with fixed charges, such payments shall be considered rental payments and shall be returned by the lessor corporation as income, notwithstanding fact that dividend and interest are paid by lessee direct to stockholders and bondholders of lessor. (T. D. 2690; art. 102.)

—— **Manufacturing corporations.**

Gross income for purposes of returns of manufacturing companies shall consist of total sales plus inventory at end of year, less sum of cost of goods or materials purchased during year and inventory at beginning of year; to gross manufacturing income should be added the income, including dividends, received from other corporations and gains or profits from all sources. (T. D. 2690; art. 91.)

—— **Mercantile corporations.**

Gross income of mercantile companies, for purpose of returns, shall consist of total sales plus inventory at end of year, less sum of cost of goods purchased during year and inventory at beginning of year; to amount of income thus ascertained should be added the income, gains, or profits derived from all other sources; all sales made during year, whether compensated for by accounts receivable, bills receivable, cash, or other property at a determined cash value, must be included in gross income of year in which sales were made. (T. D. 2690; art. 92.) Modified by T. D. 2649 and T. D. 2744, so that returns may be made on basis of inventories taken at cost or market value, whichever is lower.

—— **Miscellaneous corporations.**

Gross income of miscellaneous corporations consists of total revenue derived from operation and management of business and property of corporation making return, together with all amounts of income, including the income, gains or profits from all other sources, including dividends received. (T. D. 2690; art.93.)

—— **Operating corporation controlled by stock ownership.**

If leased or purchased line keeps separate books of account, or income is or can be segregated, or if lessee or operating company pays it a certain rental, or in lieu of rental pays certain per cent of dividends on its stock, interest on its bonds, taxes, etc., lessor will return same as its income, and lessee or operating company will make its return as though it were in no way related to leased line. (T. D. 2690; art. 125.)

Railroad company operating leased or purchased lines as integral part of its line or system, and keeping no separate books of account as to such leased or purchased line, income from operation of which can not be segregated, shall include in its income all receipts derived therefrom. (T. D. 2690; art. 125.) See T. D. 2662; Mar. 6, 1918.

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Gross income—Continued.

—— Orchard development expenses.

Amounts expended in development of orchards prior to time when productive stage is reached, constitute investments of capital. (T. D. 2690; art. 4.)

—— Patents—Sales.

Corporation disposing of patents by sale should determine profit or loss arising therefrom by computing difference between selling price and the cost or value as of March 1, 1913, if acquired before that date; apparent profit or loss should be increased or decreased, as case may be, by amounts deducted since March 1, 1913, as return of capital invested in such patents. (T. D. 2690; art. 109.)

—— Purchase of assets of other corporation.

Where one corporation buys assets of another and issues direct to selling company its own capital stock in payment for such assets, transaction will be treated by selling company as sale of its assets, and question as to whether profit or loss results will depend on whether or not value of stock taken in payment is in excess of fair market price or value as of March 1, 1913, of assets sold, or of their cost accordingly as they were acquired by the selling company prior or subsequent to that date; if value of stock is so in excess, amount of excess will be taxable income for year in which assets were sold; if purchasing corporation takes over all assets and assumes liabilities, amount so assumed will be considered payment of purchase price, and to extent that entire price exceeds cost or value, as of March 1, 1913, as case may be, of assets, income will accrue to selling company. (T. D. 2690; art. 124.)

—— Records.

True and accurate record of all income received, as well as all disbursements or charges against income, should be kept, in order that it may be identified and verified by the internal-revenue officer, if an examination of the books should be deemed advisable. (T. D. 2690; art. 88.)

—— Rentals.

Gross income from sources within United States, as applied to foreign corporations, includes income from rentals. (T. D. 2690; art. 89.)

—— Royalties.

Gross income from sources within United States, as applied to foreign corporations, includes income from royalties from business transacted or capital invested in the United States. (T. D. 2690; art. 89.)

Royalties received in accordance with contract by which corporation has assigned patent rights to manufacture machines, etc., are income and should be so accounted for. (T. D. 2690; art. 113.)

—— Sale of capital assets, etc.

Provision of section 10 of Title II of the act of September 8, 1916, as amended by act of October 3, 1917, contemplates that all gain realized and ascertained as provided in such section, in cash or its equivalent, upon sale or disposition of capital assets, shall be returned as gross income; in case of property acquired subsequent to March 1, 1913, and later sold or disposed of, difference between cost and selling price will be returned as income for year in which sale is made. (T. D. 2690; art. 116.)

Where corporation sells property on installment plan, title passing at time of sale, gain to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

Where corporation sells its capital assets in whole or in part, it will include in its gross income for year in which sale was made an amount equivalent to excess of sales price over fair market price or value of such assets as of March 1, 1913, if acquired prior to that date, or over cost if acquired subsequent to that date; if purchase price is paid with stock issued by purchasing company, purchase price will be the actual value at time of the stock issued in payment of such assets. (T. D. 2690; art. 101.)

In determining profits realized or loss sustained upon sale of capital assets by one corporation to another, payment therefor being made in stocks or bonds of purchaser, profit or loss, as case may be, from such sale will be ascertained upon basis of difference between cost of such assets to the seller in case they were

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Gross income—Continued.

—— Sale of capital assets, etc.—Continued.

acquired subsequent to March 1, 1913, or fair market value as of March 1, 1913, if acquired prior to that date, and fair cash value of stock or bonds at time sale was made. (T. D. 2690; art. 118.)

Proceeds from sale of capital stock, whether in excess of or less than par value of stock subscribed for and issued, constitute capital of the company; if stock is sold at premium, premium is not income; if sold at discount, amount of discount is not a loss deductible from operating income. (T. D. 2690; art. 97.)

—— Stock trust certificates.

Stock trust certificates or leased line certificates, as case may be, issued by lessee for purpose of securing or holding control of stock of lessor are held to be issued in lieu of certificates of capital stock, and they will be treated as capital stock and amounts received by holders are dividends to them, to be treated as rentals by both lessee and lessor and constitute allowable deduction in one case and item of income in other, accordingly as they are paid and received. (T. D. 2690; art. 104.)

—— Stockholders' sale of rights.

Where corporations, desiring to secure additional capital, propose to issue and sell further shares of stock, reserving to stockholders right to subscribe for a certain number of shares of the new stock issue, proportioned to number previously held, and such stockholders shall sell their rights, it will be held that proceeds of such sale are in their entirety income for year in which rights are sold, and shall be so returned by the stockholders, whether they be individuals or corporations. (T. D. 2690; art. 95.)

—— Subsidiary companies.

Where holding company actually takes up each month on its books and credits surplus and profit and loss with its proportionate share of earnings of underlying companies, holding company required to include in gross income amounts thus taken up, regardless of fact that same may not have been paid to or received by it in cash; fact that underlying companies credit holding company with amount of earnings to which it is entitled on basis of stock it holds, together with fact that holding company takes up on its books amount thus credited, renders it incumbent upon holding company to return these amounts as income. (T. D. 2690; art. 115.)

Where subsidiary or other corporation sells or transfers assets to parent or other corporation, accepting in exchange therefor stock or bonds of purchasing corporation, question of gain or loss will be determined upon basis of difference between cost or market value of assets sold and actual value of stock or bonds given in exchange therefor; any gain or loss thus ascertained as resulting from such transaction will be added to or deducted from entire gross income, as case may be, of selling corporation in year in which capital assets were sold. (T. D. 2690; art. 119.)

Where one corporation operating for itself is controlled by another through the ownership of a majority or all of its stock, controlling corporation is merely a stockholder, and subsidiary company must make separate and distinct return, accounting for all income received during each taxable year, and holding company will return as income any dividends or earnings received from operating company. (T. D. 2690; art. 125. See T. D. 2662; Mar. 6, 1918.)

Where corporation is owner of all stock in subsiduary company and the lessee of all its property, regularly maintaining possession, control, and management of all the subsidiary's money and other property, so that the subsidiary is a mere agent of the other corporation and is practically merged therewith, dividends of the subsidiary declared out of a surplus which accrued prior to March 1, 1913, are not taxable income of the parent corporation. (T. D. 2730; June 11, 1918. Ct. Dec.)

Where a holding company owns all of the stock of its subsidiary corporations, except the qualifying shares of the directors, and the subsidiary corporations, together with the holding company, constitute a single enterprise, the accumulated earnings and surplus of the subsidiary corporations used by them as capital prior to January 1, 1913, do not become taxable income of the holding company when formally transferred to it as dividends; T. D. 2542 reversed. (T. D. 2783; Jan. 7, 1919.)

—— Treasury stock.

Where treasury stock, defined to mean stock which had been previously issued by corporation, and which had been repossessed by it through purchase or other-

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Gross income—Continued.

—— **Treasury stock**—Continued.

wise, and then carried on its books as an asset, is resold at a price in excess of its cost upon repossession, such excess shall be returned as income for year in which resold; unissued stock retained by corporation for future sale will not be considered treasury stock, and when sold, no part of proceeds will be considered taxable income. (T. D. 2690; art. 98.)

—— **Voluntary payments by stockholders.**

Where corporation requires additional funds to conduct business and obtains same through voluntary pro rata payments by stockholders, and such amounts are credited to surplus account or to special capital account, the amount so received will not be considered income, although, as representing this additional fund, there is no increase in outstanding shares of stock or liability of corporation; payments will be treated as an addition to and as part of operating capital. (T. D. 2690; art. 96.)

—— **Warrants of city, etc.**

In cases wherein warrants are issued by a city or other political subdivision of a State and are accepted by contractor in payment for public work done, face value of such warrants must be returned as income for year in which they are received; if contractor does not receive and cannot recover full face value of such warrants he may deduct from gross income for year in which warrants are converted into cash any loss sustained, which loss will be measured by difference between face value of warrants returned as income and amount actually received for them in cash or its equivalent. (T. D. 2690; art. 108.)

Imposition of tax.

Under Parts II and III of Title I of the act of September 8, 1916, as amended, every corporation, joint-stock company or association, or insurance company organized in the United States, no matter how created or organized, except those specifically exempt under section 11 of such Title, shall be subject to pay annually an income tax of 2 per cent upon the entire net income received during the preceding calendar or fiscal year, as the case may be. (T. D. 2690; art. 55.)

—— **Additional tax.**

Net income of corporations remaining undistributed for six months after close of calendar year may be subject to additional tax. (T. D. 2690; art. 3.)

Under Title I, of the act of October 3, 1917, additional tax of 4 per cent known as war income tax, is imposed on net income of every corporation, joint-stock company or association, or insurance company organized in the United States, except that for purpose of assessment of additional 4 per cent tax net income of such corporations shall be credited with amount of dividends received from other corporations subject to tax under Title I of the act of September 8, 1916, as amended, and the act of October 3, 1917. (T. D. 2690; art. 56.)

—— **Associations.**

Organization under constitution of which individuals who are beneficially interested in various proportions in same property and hold assignable certificates representing their different interests therein, but who can claim no part of income of property as their income as distinguished from income of organization, commit control and management of such property for profit to trustees free from their own immediate control or interference, except that they may act by majority in amount and interest for purpose of allowing extra compensation to trustees, filling vacancies in office of trustees or modifying terms of declaration of trust, is an "association" and taxable as such under Section II G (a) of the act of October 3, 1913. (T. D. 2720; June 4, 1918.)

—— **Dissolved corporation.**

Corporation which was dissolved in 1917 prior to passage of act of October 3, 1917, is subject to tax under act of September 8, 1916, as amended, and also to war income tax and war excess-profits tax imposed by act of October 3, 1917. (T. D. 2690; art. 61.)

—— **Exports.**

The net income from the venture of exportation when completed, that is to say, after the exportation and sale are actually consummated, is subject to taxation under the general laws. (T. D. 2726; June 4, 1918.)

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Imposition of tax—Continued.

—— **Exports**—Continued.

Income tax imposed by the act of October 3, 1913, is not laid on articles in course of exportation or on anything which inherently or by the usages of commerce is embraced in exportation or any of its processes, but on the contrary is a general tax. (T. D. 2726; June 4, 1918.)

—— **Insurance companies.**

Under Title I of the act of October 3, 1917, tax of 4 per cent in addition to tax of 2 per cent is imposed upon net incomes of foreign and domestic corporations operating in the United States (with exception of Porto Rico and Philippine Islands), determined in accordance with conditions prescribed in act of September 8, 1916, except that dividends received from other corporations subject to income tax are not subject to 4 per cent war income tax. (T. D. 2690; art. 239.)

—— **Normal tax.**

Normal tax under act of 1916 is 2 per cent of net income from all sources and tax under act of 1917 is 4 per cent on net income from all sources, except dividends from corporations, whose income is subject to income tax, so that except as to dividends (which as income to corporations are subject to income tax at rate of 2 per cent only), combined normal tax on income of corporations is 6 per cent. (T. D. 2690; art. 3.)

Information at source—Exempt corporations.

Payments made to corporations, associations, or insurance companies for the year 1917 do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Organizations enumerated in section 11 of the act of September 8, 1916, as amended are not exempt from requirements with respect to furnishing information in accordance with provisions of Title I, as amended by section 1205 of Title XII, of the act of October 3, 1917. (T. D. 2690; art. 81.)

Net income.

Net income upon which tax imposed by section 10 of Title I of the act of September 8, 1916, as amended, is levied, is that portion of the gross income received from all sources (except from interest on obligations of the United States or its possessions, or on obligations of a State or political subdivision thereof) which remains after all authorized deductions have been taken into account. (T. D. 2690; art. 196.)

—— **Basis.**

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918. Affirmed in T. D. 2744; July 11, 1918.)

Dealer in securities, for purposes of T. D. 2609, is a merchant of securities whether an individual, partnership, or corporation, with an established place of business, and whose principal business is the purchase of securities and their resale to customers; one who as a merchant buys securities and sells them to customers with a view to the gains and profits that may be derived therefrom. (T. D. 2649; Jan. 30, 1918. See T. D. 2744; July 11, 1918.)

Corporations engaged in live stock or farming business which do not keep books of account and ascertain their gross income by inventory should prepare their returns of annual net income on basis of actual receipts and disbursements. (T. D. 2665; Mar. 8, 1918. See T. D. 2665; Mar. 8, 1918.)

Corporations keeping accounts in strict accord with methods prescribed by municipal, State, or Federal authorities, or in accord with approved standard accounting practices consistently followed from year to year, will be permitted to make their returns of annual net income on basis of accounts so kept, providing such systems of accounting clearly and correctly reflect net income of each year. (T. D. 2690; art. 127.)

Any system of accounting which is not consistent with purpose and intent of rules set out in Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and with the general rules set out in Regulations No. 33, for ascertainment of net income, will not be accepted as correct basis for making returns. (T. D. 2690; art. 128.)

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Net income—Continued.

—— Campaign contributions.

Contributions by corporations for campaign expenses are not an ordinary and necessary expense in the operation and maintenance of the business, and are therefore not deductible. (T. D. 2690; art. 143.)

—— Credits.

Corporation which has filed return for fiscal year ended on last day of some month during 1917, or a final return for period ended during such year, showing liability computed under act of September 8, 1916, must make amended return showing additional net income (in amount equal at least to amount of income tax deducted in original return); it will take credit for amount of excess-profits tax for which liable; if overpayment of income tax at 2 per cent rate is shown, amount of such overpayment may be credited against war income tax of 4 per cent, for which liable, to ascertain total amount of tax due, but in no case will credit for overpayment of income tax be taken against the excess-profits tax due. (T. D. 2663; Mar. 8, 1918.)

Exemption provided for in Federal reserve statute, section 3, of the act of October 22, 1914, attaches to and follows income derived from dividends on stock of Federal reserve banks into hands of stockholders, that is to say, dividend received on stock of such banks, are exempt from taxes imposed by acts of September 8, 1916, as amended, and of October 3, 1917; this ruling does not contemplate that dividends paid by member banks are exempt from the 2 per cent tax, but such dividends, in so far as they may be received by other corporations, may be treated as a credit against net income in computing the war income tax imposed by Title I of the act of October 3, 1917. (T. D. 2690; art. 86.)

Where it is clearly established that debtor corporation has actually withheld and paid to proper officers of the United States the tax on interest on bonds containing tax-free covenant, recipient, having returned such interest as income, may take credit against any tax to which subject on the basis of the return, for tax so paid by debtor corporation. (T. D. 2690; art. 122.)

Net income of corporation, for purpose of assessment of war income tax of 4 per cent, shall be credited with amount received as dividends upon stock or from net earnings of any other corporation which is taxable upon its net income under Title I of the act of September 8, 1916, as amended, and which amount has been included in gross income. (T. D. 2690; art. 198.)

Foreign corporation may take credit against tax assessable on basis of net income returned for any tax which may have been withheld at source, provided income upon which tax was withheld is included in return and provided that name of withholding agent is given in return. (T. D. 2690; art. 198.)

Where corporation returns as income interest received on bonds, interest upon which debtor corporation had agreed to pay without deduction of income taxes, and debtor corporation actually pays income tax assessable on such interest income, corporation receiving such interest may take credit against tax assessable on basis of net income returned, for amount of tax paid thereon by debtor corporation; when net income has been ascertained within rules set out in section 12 (a) of the act of September 8, 1916, as amended, it shall be credited with amount of excess-profits tax assessed or to be assessed for same year; such excess-profits tax allowance is a credit against the net income for purpose of taxes imposed by both the act of September 8, 1916, and act of October 3, 1917. (T. D. 2690; art. 199.)

—— Depletion—Mining properties.

When corporation sets aside part of its earnings to create sinking fund with which to retire indebtedness, annual additions to such fund are not allowable deduction from gross income as or in lieu of depreciation or on any other account; earnings thus set aside are an asset and any accretion thereto must be accounted for as income; ruling will not, however, forbid deduction or reasonable allowance for depletion of natural deposits even though amount so deducted be used in whole or in part in payment of its indebtedness. (T. D. 2690; art. 166.)

Ownership of mine content at time for which computation is made is an essential prerequisite to an allowable deduction for depletion under section 5 (a) and section 12 (a) of Title I of the act of September 8, 1916, as amended; deduction in case of lessee limited to amount equal to capital actually invested in lease without regard to value as of March 1, 1913, or any other date; the seventh and eighth paragraphs of section 5 (a) and the second paragraph of section 12 (a) authorize in case of mine owners two classes of deductions to take care of wasting of assets, namely, depreciation and depletion. (T. D. 2690; art. 171.)

Both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease and in machinery, equipment, etc., crediting

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Net income—Continued.

—— Depletion—Mining properties—Continued.

such accounts or a depletion reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Original cost of mineral deposit may be taken as basis for computing annual depletion deductions if fair market value as of March 1, 1913, can not be ascertained otherwise, allowance being made for minerals which may have been removed prior to that date; where property was acquired subsequent to that date, same rule for computing annual depletion deduction will apply, except that basis of computation will be actual cost rather than value as of March 1, 1913. (T. D. 2690; art. 172.)

Every individual or corporation claiming and making deduction for depletion of natural deposits shall keep accurate ledger account, in which shall be charged fair market value as of March 1, 1913, or cost, if property was acquired subsequent to that date, of mineral deposits involved, account to be credited with amount of depletion deduction claimed and allowed each year, or amount of depletion shall be credited to depletion reserve account, to end that when sum of credits for depletion equals value or cost of property, no further deduction for depletion will be allowed; fair market value or cost of property, as case may be, will be basis for determining depletion deduction for all subsequent years during ownership under which value was fixed, and during such ownership there may be no revaluation if it should be found that estimated quantity of deposit was understated; where quantity of mineral deposit prior to March 1, 1913, can not be accurately estimated necessary, if depletion deductions are to be taken, for owner of deposits, with best information available, to arrive at fair market value of property as of March 1, 1913, which value during period of ownership shall be final; then on basis of most probable number of units in property per unit value shall be determined as basis for computing annual depletion allowances; this method and allowances to be continued until, but not beyond, time when value as of March 1, 1913, shall have been extinguished. (T. D. 2690; art. 172.)

Where property was acquired by purchase or otherwise (other than by lease) prior to March 1, 1913, amount of invested capital which may be extinguished through annual depletion deductions from gross income will be the market value of mine property so acquired as of March 1, 1913; value contemplated as basis for depletion deductions must not be based upon assumed salable value of output under current operative conditions, less cost of production, for reason that value so determined would comprehend profits to be realized from operation of property; value must not be speculative but must be determined upon basis of salable value en bloc as of March 1, 1913, of entire deposit of minerals exclusive of improvements and development work; en bloc value having been ascertained, estimate of number of units (tons, pounds, etc.), should be made, and en bloc value divided by estimated number of units will determine per unit value, which multiplied by number of units mined and sold during any one year will determine sum which will constitute deduction of that year; deductions computed on like basis may be made from year to year during ownership under which value was determined until aggregate en bloc value as of March 1, 1913, of mine or mineral deposit shall have been extinguished. (T. D. 2690; art. 172.)

Precise manner in which estimated fair market value of mineral deposits as of March 1, 1913, shall be made, must be determined by owner upon such basis as must not comprehend any operating profits, estimate to be subject to approval of commissioner; in passing upon accuracy and fairness of estimate due weight will be attached to market value of stock of corporation on March 1, 1913, and also to sworn statements as to value of stock filed at any time thereafter for purposes of special excise tax based on value of capital stock imposed by Title IV of the act of September 8, 1916. (T. D. 2690; art. 172.)

Where depletion deduction is computed on basis of cost or price at which any mine, mineral lands or properties were acquired, corporation upon request of commissioner must show that cost or price at which property was bought was fixed for purposes of bona fide purchase or sale by which property passed to owner in fact as well as in form different from vendor; in determining whether or not price or cost at which any purchase or sale was made represented actual market value, due weight will be given to relationship or connection existing between party or parties selling property and buyer thereof. (T. D. 2690; art. 172.)

Lessee corporation not entitled to any deduction as such, but if lessee, in addition to royalties, pays stipulated sum for right to explore, develop, and operate mine, such sum may be spread ratably over estimated number of units in mine, and thus

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Net income—Continued.

—— **Depletion—Mining properties**—Continued.

ascertain amount of invested capital or bonus payment applicable to each unit; per unit cost thus ascertained will be multiplied by number of units removed from mine during any one year, and result will be amount that may be deducted from gross income of that year as return of capital invested; in case of both mine owner and lessee no deduction for depletion or return of capital will be allowed when invested capital has, through the aggregate of all such deductions, been extinguished; for purpose of computing this deduction in case of lessee company actual amount of bonus paid and not value as of March 1, 1913, will be considered capital invested to be returned through aggregate of annual deductions. (T. D. 2690; art. 172.)

The allowance for depletion in the case of mines pertains to a consumption of capital assets rather than to a business loss. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The lessee of a mine is not entitled to a deduction for depletion under the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

There is no substantial distinction as applied to a mine between depreciation which was sought by mine owners under the acts of August 5, 1909, and October 3, 1913, and the depletion which was allowed by the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The fact that the lessee of a mine is under an affirmati ve obligation to remove or at least to pay for a fixed amount of ore does not change the general rule as to depletion in the case of lessees. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

—— —— **Oil and gas properties.**

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property, plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited as amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account, with respect to this property and capital invested therein will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

In case of operating fee owner, amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date or actual cost of property if acquired subsequent to that date, plus in either case cost of development (other than cost of physical property incident to such development) up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

Estimate, subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient, when multiplied by number of units removed from territory in one year, will determine amount which will be allowably deducted from gross income for that year on account of depletion or as return of invested capital until total of such deductions shall equal capital invested. (T. D. 2690; art. 170.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom, sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted, as operating expense or charged to capital account. (T. D. 2690; art. 170.)

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may

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Net income—Continued.

—— **Depletion**—Continued.

—— —— **Oil and gas properties**—Continued.

be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitialized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

—— —— **Timberlands.**

In case of timberlands, fair market price or value of timber standing March 1, 1913, or cost of timber when purchase was made subsequent to that date, will be basis for calculation of depletion, and this value as of March 1, 1913, or cost when subsequently purchased, is not to be exceeded for purposes of deduction in returns of income; whole of such value is to be distributed over entire amount of standing timber on those respective dates; rules governing timber-owning companies. (T. D. 2690; arts. 8, 173.)

Fair market price or value of timberlands as of March 1, 1913, is price at which property in its then condition, and with circumstances then surrounding it, could have been sold for cash or its equivalent; such value must not be speculative, but must be determined without taking into account any prospective profits that may result by manufacturing the timber into lumber; value, once determined, must be set up on books, and, as measure of stumpage deduction, must remain constant and can not be increased except as new purchases are made at higher average cost; value so set up will be subject to approval of Commissioner. (T. D. 2690; art. 173.)

Where entire market price or value for both timber and lands as of March 1, 1913, or entire cost, if acquired subsequent to that date, is extinguished through deduction from gross income for timber used, or through per unit charge to cost of manufacturing lumber, entire amount realized from logged-off lands or other salvage will be returned as income of year in which such lands are sold or disposed of; if timber or timberlands are sold en bloc, gain or loss will be ascertained on basis of difference between fair market price, or cost, and selling price, accordingly as property was acquired prior or subsequent to March 1, 1913. (T. D. 2690; art. 173.)

Corporations owning timberland and logging off the timber and manufacturing it into lumber, will, if timber was acquired prior to March 1, 1913, be permitted to exclude from gross income either through deduction from gross receipts or through charge into cost of manufacturing timber into lumber, an amount equivalent to fair market price or value of standing timber as of March 1, 1913; corporations must set up on their books as of March 1, 1913, the fair market price en bloc, of all timber then owned by them, and then, by dividing such value by estimated number of feet in entire holdings, per unit value or price will be ascertained, which per unit price or value will be basis for measuring amount to be added to cost of manufacture, or deducted from gross income, until en bloc value of entire holdings shall have been extinguished; same rule applies to timber or timberlands purchased subsequent to March 1, 1913, only difference being that actual cost shall be substituted for en bloc price or value as of March 1, 1913. (T. D. 2690; art. 173.)

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Net income—Continued.

—— Depositors' guaranty fund.

Banking corporations which are required to maintain a "Depositors' guaranty fund" may deduct amount set apart each year to this fund, provided that such fund, when set aside and carried to credit of State banking fund or of duly authorized State officer, ceases to be asset of bank but may be withdrawn upon demand by such Board or State officer to meet needs of these officers, as required by State laws, in reimbursing depositors in insolvent banks, and provided further that no portion of amount is returnable to assets of banking corporation; if amount is simply set up on books of bank as reserve to meet contingent liability and remains asset of bank, it will not be deductible except as it is actually paid out as required by law and upon demand of proper State officers. (T. D. 2690; art. 146.)

—— Depreciation.

Lessee corporation may not deduct any depreciation with respect to buildings erected by it on leased ground, but cost of incidental repairs necessary to keep buildings in efficient condition for purpose of their use may be deducted as expense of operation and maintenance; if life of improvement is less than life of lease, depreciation may be taken by lessee, based upon cost and life of improvement. (T. D. 2690; art. 149.)

Deduction for depreciation authorized by item "Second" of section 12 should be amount of loss occurring during year to which return relates, estimated on cost of physical property with respect to which such deduction is claimed, which loss results from wear and tear due to use to which property is put and which loss has not been made good through expenditures for renewals, replacements, and repairs deducted under heading of expense for maintanance and operation; within purview of this item depreciation, to amount measuring decline in value due to exhaustion, wear and tear of property arising out of its use, is a loss, which loss, in order to constitute allowable deduction, must be charged off; manner of charging off loss is not material, except that the amount must be either deducted directly from book value of assets or credited to a depreciation reserve account, and as such shall be reflected in annual balance sheet. (T. D. 2690; art. 159.)

Assets of any character whatever which are not affected by use, wear, and tear (except patents, copyrights, etc.) are not subject to depreciation allowance; real estate as such, and as distinct from improvements thereon, is not reduced in value by reason of wear and tear, and therefore allowance contemplated as offset to depreciation in case of real estate corporation does not apply to the ground, but is intended to measure the decline, by reason, of wear and tear, in value of improvements. (T. D. 2690; art. 162.)

Depreciation set up on books and deducted can not be used for any purpose other than in making good loss sustained by reason of wear and tear of property with respect to which it is claimed; if, however, investment is made in extensions, additions, or betterments of company's own property, representing part or whole of credit balance of depreciation reserve account, such investment will not be considered a misuse or diversion of the depreciation deduction otherwise allowable. (T. D. 2690; art. 164.)

Where, by reason of underestimating life of property, or overestimating rate of deterioration, an amount in excess of yearly depreciation has been taken, rate applicable to future years should at once be reduced and balance of cost of property not provided for through a depreciation reserve should be spread over estimated remaining life of property. (T. D. 2690; art. 165.)

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

Operator will be permitted to deduct from gross income of each year reasonable allowance for depreciation of all physical property used in connection with operation of mine and owned by operator; for this purpose the actual cost (not value) will be equitably distributed over useful life of such property until true salvage value has been reached; both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation reserve account with amount claimed and allowed as a deduction each year until, as result of such credits,

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Net income—Continued.

—— **Depreciation**—Continued.

the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Reasonable allowance for wear and tear of property arising out of its use or employment in business or trade is to be based upon cost of such property or on its fair market price or value as of March 1, 1913, if acquired prior thereto; in absence of proof to contrary it will be assumed that such value as of March 1, 1913, is cost of property, less depreciation up to that date. (T. D. 2754; Aug. 23, 1918.)

—— —— **Rate for computing.**

Though no definite rate has been fixed by which deduction on account of depreciation in value of property subject to wear and tear is to be computed, it is contemplated that such allowance shall be computed upon basis of cost of property and probable number of years constituting its life; deduction relates solely to loss due to use, wear, and tear, and matter of obsolescence is not relevant. (T. D. 2690; art. 162.)

Deduction on account of depreciation in case of buildings shall not include any allowance for estimated loss due to lessening of rental value, nor shall computation of deduction be influenced by changed environment after period of years not by its lack of adaptability to use originally intended nor to any other outside influence affecting its value, but an allowable depreciable shall be determined solely upon estimated life of such buildings after making due allowance for ordinary repairs, cost of which may be deducted as expenses for maintenance and operation. (T. D. 2690; art. 162.)

Where actual cost of buildings or improvements at time they were taken over by corporation can not be definitely determined, it will be sufficient for purpose of determining rate of depreciation to be used in computing amount taxable, to estimate actual value at time acquired of buildings or improvement if acquired after March 1, 1913, or fair market price or value as of that date if property was acquired prior thereto, value in either case to be reduced by amount of depreciation previously sustained. (T. D. 2690; art. 163.)

—— **Destruction of property.**

Actual cost of property destroyed by order of authorities of a State or of the United States may be claimed as a loss; but if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

When loss is claimed through destruction of property by fire, flood, or other casualty, amount deductible will be difference between value as of March 1, 1913, or cost of property and salvage value therof, including in the latter value the amount, if any, that has been or should have been set aside and deducted in current or previous years from gross income on account of depreciation and which has not been paid out in making good the depreciation sustained. (T. D. 2690; art. 147.)

—— **Discounts.**

Discount on bonds issued and sold prior to 1909, if such discount was then charged against surplus or against income of year in which bonds were sold, not deductible from income of subsequent years, for reason that charging off prior to January 1, 1909, of entire amount of discount constitutes closed transaction. (T. D. 2690; art. 149.)

Where bonds were sold subsequent to January 1, 1909, at a discount, and amount of discount was charged off on books, either against earnings or surplus, but not deducted in corporation's return of net income, such discount as was not then deducted may be spread over life of the bonds and an aliquot part of the discount may be deducted from gross income of each year until bonds mature or are redeemed. (T. D. 2690; art. 150.)

Where corporation sells its bonds at discount plus commission for selling, amount of such discount and commission, together with other expenses incidental to issuing bonds, constitute a loss, aggregate amount of which will, for purpose of income-tax return, be prorated over life of bonds sold, and amount thus apportioned to each year will be deductible from gross income of each year until bonds shall have been redeemed. (T. D. 2690; art. 150.)

Where corporation having sold its bonds at discount, discount having been deducted from gross income, later repurchases or redeems the bonds at a price less than par, difference between price at which they are redeemed and their par value will be returned as income; if bonds are sold at premium, premium must be returned as income. (T. D. 2690; art. 150.)

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Net income—Continued.

—— **Discounts**—Continued.

Where refund payments by cooperative societies, associations or corporations are made in proportion to purchases made by recipient in accordance with by-laws or published rules regularly adhered to, they are regarded as discounts or rebates, tending to reduce taxable net income of organization. (T. D. 2737; June 19, 1918.)

—— **Diversion of fund.**

Where corporation at end of year distributes net income as dividends, without providing for depreciation, it will be estopped from claiming in its returns for such year any deduction on account of depreciation unless it is shown conclusively that property account has been reduced by amount of depreciation claimed or unless such amount has been credited to a depreciation reserve account, and such amount was in fact a reasonable allowance; a depreciation reserve account authorized by section 12 can not be diverted to payment of dividends; fact that no reserve was made for depreciation indicates that there was no loss on this account to be provided for. (T. D. 2690; art. 161.)

—— **Donations.**

See "Gifts or bonuses," under this subhead.

—— **Expenses—Additions and betterments.**

Amounts expended in additions and betterments or for furniture and fixtures which constitute increase in capital investment and add to value of assets are not proper deduction, but such expenditures when capitalized may be extinguished through annual depreciation deductions, which latter deductions will be computed upon basis of cost and probable life of property. (T. D. 2690; art. 132.)

Cost of erecting permanent buildings or of making permanent improvements on ground leased by company is an additional rental and may be deducted, provided such improvements, under terms of lease, revert to owner of ground at expiration of lease; in such case cost will be prorated according to number of years constituting term of lease and annual deduction will be aliquot part of such cost. (T. D. 2690; art. 140.)

—— —— **Capital stock sale.**

Expenses connected with selling of capital stock to raise capital to be by it invested in property or employed in business for which corporation is organized may not be deducted as expense of operation and maintenance; it is a capital loss or expense properly chargeable against proceeds of sale of stock and reduces the capital rather than the earnings of the company. (T. D. 2690; art. 145.)

—— —— **Compensation payments.**

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

When amount of salary of officer or employee is paid for limited period after his death to his widow or heirs in recognition of services rendered by individual, no services being rendered by widow of heirs, such payment is not ordinary and necessary expense of transacting business and may not be deducted. (T. D. 2690; art. 137.)

Where salaries of officers or employees who are stockholders are found to be out of proportion to volume of business transacted or excessive when compared with salaries of like officers or employees of other corporations doing similar kind or volume of business, amount so paid in excess of reasonable compensation for services will not be deductible, but will be treated as distribution of profits. (T. D. 2690; art. 138.)

Special payments made to officers or employees who are stockholders, in guise of additional salaries or compensation, amount of which is based upon or bears close relationship to stock holdings of such officers or employees, or capital invested by them in business of company, will be regarded as special distribution of profits or compensation for capital invested, and not payment for services rendered; payments under such latter conditions, being in nature of dividends, will not be deductible. (T. D. 2690; art. 138.)

Compensation paid employee in capital stock of corporation may be deducted as expense if so charged on books at actual value of such stock. (T. D. 2690; art. 139.)

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Net income—Continued.

—— **Expenses**—Continued.

—— —— **Compensation payments**—Continued.

In case of compensation fixed after services are rendered and not in accordance with any contract or any custom or practice amounting virtually to a contract, reasonableness is ordinarily the controlling test of deductibility. (T. D. 2696; Apr. 10, 1918.)

Test of deductibility in case of compensation payments is whether they are in fact payments purely for services or include some other element; in case of any compensation which exceeds amounts ordinarily paid for like services in like enterprises under like circumstances, burden is upon enterprise to show that amount paid was solely purchase price of services; this test and its particular application further stated and illustrated. (T. D. 2696; Apr. 10, 1918.)

Compensation greater than that ordinarily paid for like services in similar enterprises must be shown to represent payment for services only. (T. D. 2696; Apr. 10, 1918.)

Compensation on whatever basis fixed, representing only the price paid for services pursuant to a fair bargain made in advance between the individual and the business enterprise, is deductible in determining taxable net income of the enterprise. (T. D. 2696; Apr. 10, 1918.)

Payments nominally as compensation for services, which in fact include amounts paid as dividends, waste of corporate assets, payments for property, or for anything other than services, are deductible only to an amount not in excess of compensation for like services in similar enterprises. (T. D. 2696; Apr. 10, 1918.)

—— —— **Current earnings, charges against.**

All expenses including interest, taxes, and other necessary charges, incidental and necessary to creation or production of gross income or properly chargeable against same, being deductible from gross income, whether paid in cash or entered on books as liability, can not, if unpaid, be carried forward to be deducted from gross income of subsequent year. (T. D. 2690; art. 127.)

Each year's return, both as to income and deductions therefrom, must be complete within itself; charges against income can not be cumulative, but must be deducted from income of year in which incurred or not at all; expenses, liabilities, or deficit of one year can not be used to reduce income of subsequent year; deductions must in all cases be such as are authorized and within limits fixed by law. (T. D. 2690; art. 127. See T. D. 2433; Jan. 8, 1917.)

Corporation having right to deduct all authorized allowances, whether paid in cash or set up as a liability, it follows that if it does not within any year pay or accrue certain of its expenses, interest, taxes, or other charges, and makes no deduction therefor, it can not deduct from income of next or any subsequent year any amounts then paid in liquidation of the previous year's liabilities. (T. D. 2690; art. 128.)

—— —— **Drawings, models, etc.**

Where corporation has made expenditures for designs, drawings, patterns, or models, representing work of experimental nature, and such designs, etc., prove to be satisfactory and result in production of salable goods, they will be treated as a capital asset, and entire cost thereof, including experimental and developing expenses, will be capitalized, in which case no part of expenditures will be included in expenses of running business and will not be treated as deduction from gross income. (T. D. 2690; art. 175.)

Where designs, drawings, patterns, or models, for which corporation has made expenditures, prove to be unsatisfactory and do not result in production of salable goods and have no asset value, such expenditures when charged off may be included as loss incident to business and as such deducted, provided corporation in taking credit in its return shall make full and complete explanation to satisfaction of Commissioner of Internal Revenue. (T. D. 2690; art. 176.)

—— —— **Live stock purchases.**

Cost of live stock purchased for resale by corporation engaged in operating plantations, stock farms, etc., is an allowable deduction under item of expense. (T. D. 2690; art. 123. But see T. D. 2665.)

—— —— **Operation and maintenance.**

In case of cemetery company, reserve set aside out of profits as "maintenance fund" is not deductible from gross income, and any accretions to such fund will be held to be income, and as such must be returned by the corporation; expenses of maintenance will be deductible as paid. (T. D. 2690; art. 71.)

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Net income—Continued.

--- Expenses—Continued.

- — — — Operation and maintenance—Continued.

Expenses of operation and maintenance shall include all expenditures for material, labor, fuel, and other items entering into cost of goods sold or inventoried at end of year, provided such expenditures have not been considered in determining cost of goods or materials, or purchases thereof during year, when income derived from operations is ascertained through inventory and all other disbursements necessary to operation of business except such as are required to be segregated and stated separately in return; expenditures which are taken into account in determining cost of products, finished or unfinished, are not to be again deducted as expenses of operation and maintenance. (T. D. 2690; art. 129.) Modified by T. D. 2649 and T. D. 2744, so that returns may be made on basis of inventories taken at cost or market value, whichever is lower.

— — Payment required.

Where, in course of its business, corporation credits accounts with amounts of any expenses, interest, rentals, wages, etc., due them, thereby making them subject to personal drawings of creditors, or if expenses actually incurred are vouchered in definite amounts, such amounts may be treated as paid, and if such amounts are expenses incurred concurrently with and in production of income of the year they may be allowably deducted therefrom; this ruling must not be construed to allow as a deduction any accrued charges which if paid in cash or otherwise would not be deductible. (T. D. 2690; art. 126.)

"Paid" or "actually paid," within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, does not necessarily contemplate that there shall be an actual disbursement in cash or its equivalent; if amount involved represents actual expense or element of cost in production of income of year, it will be properly deductible even though not actually disbursed in cash, provided it is so entered upon books of company as to constitute a liability against its assets, and provided further that income is returned upon an accrued basis. (T. D. 2690; art. 126.)

— — Repairs.

Cost of incidental repairs which neither add to value of property nor appreciably prolong its life, but keep it in an ordinarily efficient operating condition, may be deducted as expense, provided that plant or property account is not increased by amount of such expenditures; such repairs to extent that they arrest deterioration should have effect to reduce depreciation charge otherwise deductible. (T. D. 2690; art. 131.)

Cost of incidental repairs necessary to keep buildings erected by lessee corporation in efficient condition for purposes of their use may be deducted by such corporation as an expense of operation and maintenance. (T. D. 2690; art. 140.)

— — Uncompleted contracts.

Where gross income of contracting corporations, having numerous uncompleted contracts, which in some cases run for period of years, is arrived at by returning as income any and all moneys received in payment for completed jobs for year in which work was completed, deduction from gross income should be limited to expenditures made on account of such completed contracts. (T. D. 2690; art. 121.)

— Farming corporations, etc.

See subhead "Returns—Farmers," *post*.

If, in case of farmers', fruit growers', or like association, organized and operated as sales agent to market products of its members, amounts paid to members are based solely upon quantity of produce furnished, such amounts may be deducted from gross proceeds of sale, and taxable net income will be amount of earnings passed to surplus, or distributable among members on basis of their stock holdings. (T. D. 2690; art. 75.)

Money expended for stock for breeding purposes is regarded as capital invested, and where stock afterwards dies from disease or injury or is killed by order of the authorities of a State or the United States, and cost thereof has not been claimed as an item of expense in the preparation of previous returns, the amounts so expended, less any depreciation which may have been previously claimed, less also any insurance or indemnity recovered, may be deducted as a loss; if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

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Net income—Continued.

—— **Farming corporations, etc.**—Continued.

There may be claimed a reasonable allowance for depreciation on farm buildings, farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 123.)

In determining cost of stock for purpose of ascertaining deductible loss there shall be taken into account only the purchase price and not the cost of any feed, pasturage, or care which has been deducted as an expense of operations. (T. D. 2690; art. 123.)

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools of short life or insignificant cost, such as hand tools, including shovels, rakes, etc., may be included under this item. (T. D. 2690; art. 123.)

All deductions by corporations engaged in operating plantations, ranches, etc., shall be based upon legitimate expense incident to current year whether for production of present or future years, except that in case wherein corporation is engaged in producing crops which take more than a year from time of planting to process of gathering and disposing, income reported and expenses deducted should be determined upon crop basis. (T. D. 2690; art. 123. See T. D. 2665; Mar. 8, 1918.)

—— **Foreign corporations.**

Net income of foreign corporation shall be ascertained by deducting from gross income received in this country deductions enumerated in income-tax act, which deductions shall be limited to expenditures or charges actually incurred in maintenance and operation of business transacted and capital invested in United States, or, as to certain charges, such proportion of aggregate charges as gross income from business done and capital invested in United States bears to aggregate income within and without United States. (T. D. 2690; art. 197.)

—— **Gifts or bonuses.**

Donations which legitimately represent consideration for benefit flowing directly to corporation as incident of business may be deducted. (T. D. 2690; art. 134.)

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Donations made to employees and others, and which do not have in them the element of compensation, are considered gratuities and are not allowable deductions from gross income as expenses of operation or maintenance or under any other item. (T. D. 2690; art. 135.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered by employees; if, when added to stipulated salaries, they do not exceed a reasonable compensation for services rendered, they will be regarded as a part of the wage or hire of the employee and are deductible as an ordinary and necessary expense of operation and maintenance. (T. D. 2690; art. 138.)

Corporations, partnerships, or individuals paying officers or business employees a portion or all of their salaries and wages during the war period in which they are in the service of the United States may deduct the amounts so paid as ordinary and necessary expenses of doing business. (T. D. 2660; Mar. 1, 1918.)

—— **Good will.**

For purpose of income tax good will is capable of neither appreciation nor depreciation, and amount claimed to represent its decline in value is not an allowable deduction in computing tax liability of an individual or corporation. (T. D. 2690; art. 8.)

Good will represents value attached to business over and above value of physical property, and is such an intangible asset that it is not subject to wear and tear, and no claim for depreciation on account of it can be allowed; any loss resulting from or on account of investment in good will can be determined only when property or business to which good will attaches is sold or disposed of, in which case profit or loss will be determined upon basis of value of assets including good will if acquired prior to March 1, 1913, or their cost if acquired subsequent to that date. (T. D. 2690; art. 167.)

If good will shall have been purchased at a determined price and shall be later sold at a price less than such cost, or less than determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less

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Net income—Continued.

—— **Good will**—Continued.

than cost or value, as case may be, will be loss deductible from gross income of year in which such asset was sold. (T. D. 2690; art. 168.)

—— **Insurance companies—Agency balances.**

Losses of insurance companies other than mutuals, but including mutual life and mutual marine, from agency balances or other amounts charged off as worthless, and losses by defalcation, premium notes voided by lapse, provided such notes have at some time been included in gross income for income tax purposes, may be deducted; otherwise, they will not be deductible. (T. D. 2690; art. 240.)

—— —— **Ascertainment.**

In ascertaining net income of insurance company, for purpose of tax imposed by Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, the general provisions contained in the law and in Regulations No. 33 will be observed, except as modified by specific legislation or regulation or regulations concerning insurance companies. (T. D. 2690; art. 239.)

Net income of insurance company for purpose of 4 per cent tax imposed in addition to 2 per cent tax is to be ascertained in same manner as directed by terms of act of September 8, 1916, except that for purpose of 4 per cent war income tax credit against net income is permitted, representing amount of dividends received upon stock or from net earnings of any other corporation, joint-stock company or association, or insurance company, which is taxable upon its net income under Title I of the act of September 8, 1916, as amended by the act of October 3, 1917. (T. D. 2690; art. 239.)

—— —— **Disposition of ledger assets.**

For purpose of ascertaining gain or loss from sale or other disposition of ledger assets acquired prior to March 1, 1913, fair market price or value of such assets as of March 1, 1913, shall be basis for determining such gain or loss to be accounted for in return of year in which such assets are sold; if acquired subsequent to March 1, 1913, then profit or loss to be returned or claimed will be difference between cost and selling price; reinsurance and return premiums should not be included in gross income nor in deductions. (T. D. 2690; art. 239.)

—— —— **Dividends paid.**

None of the cash dividends paid by life insurance company to policy holders which represent redundancy in previous premium payments is deductible from gross income as "sums other than dividends paid within the year on policy contracts." (T. D. 2899; July 24, 1919. Ct. Dec.)

—— —— **Expenses.**

All ordinary and necessary expenses paid within the year in the maintenance and operation of the company and its properties may be deducted from gross income in returns by insurance companies other than mutuals, but including mutual life and mutual marine. (T. D. 2690; art. 240.)

Insurance companies, other than mutuals, but including mutual life and mutual marine, may add to expenses in lieu of depreciation of furniture and fixtures, actual cost of repairs, replacements, and renewals of such furniture as is reported to State insurance department, provided that in case of an original investment cost thereof shall be charged to capital account. (T. D. 2690; art. 240.)

—— —— **Interest.**

Insurance companies keeping books of account on an accrued basis may deduct from gross income in returns of annual net income, the accrual of interest for the return year within limits prescribed by taxing acts when shown as a charge against accrued income upon books of account. (T. D. 2625; Dec. 17, 1917.)

Interest paid on indebtedness wholly secured by property collateral the subject of sale or hypothecation in ordinary business of company as dealer only in property constituting such collateral or in loaning of funds thereby produced is an allowable deduction in returns by insurance companies other than mutuals, but including mutual life and mutual marine, as business expense to an amount of interest paid on such indebtedness, not in excess of actual value of collateral securing it. (T. D. 2690; art. 240.)

—— —— **Losses.**

Losses of insurance companies, other than mutuals, but including mutual life and mutual marine, deductible (other than policy payments) must be distinguished

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Net income—Continued.

—— **Insurance companies**—Continued.

—— —— **Losses**—Continued.

from depreciation or allowances for exhaustion, wear, and tear; losses must be absolute, complete, actually sustained during year, and charged off on books of company, and if they result from sale of assets acquired prior to March 1, 1913, such losses shall be ascertained by taking difference between fair market price or value as of March 1, 1913, and the selling price; if assets were acquired subsequent to March 1, 1913, loss will be amount by which selling price is less than the cost; losses compensated by insurance or otherwise are not deductible. (T. D. 2690; art. 240.)

There should be reported as payments on policies by insurance companies, other than mutuals, but including mutual life and mutual marine, all death, disability, or other policy claims (other than dividends) paid within year, including fire, accident and liability losses, matured endowments, and annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. (T. D. 2690; art. 240.)

—— —— **Mutual insurance companies.**

Profit or income to be returned in event of sale or maturity of capital assets acquired prior to March 1, 1913, should be determined upon basis of difference between fair market value of such assets as of that date and selling price thereof; if assets were acquired subsequent to that date, loss will be amount by which selling price is less than cost; such profit or income may, for purpose of tax, be reduced by amount of any loss resulting from same source and ascertained in same manner; in no event can loss resulting from sale or maturity of capital assets exceed gain within year from like transactions. (T. D. 2690; art. 242.)

All payments received in cash or its equivalent as rent on buildings or other property, owned or controlled by company, must be returned as taxable income, after deducting amount paid for repairs and expenses, including taxes (levied for purposes other than local benefits) as has been expended on property from which rental income returned was derived. (T. D. 2690; art. 242.)

The provision of section 12 (a), paragraph second, of the act of September 8, 1916, that certain mutual fire and mutual employers' liability, and mutual workmen's compensation, and mutual casualty insurance companies, shall not return as income any portion of premium deposits returned to policyholders, but shall return income received from all other sources plus due portions of premium deposits as are retained for purposes other than payment of losses and expenses and reinsurance reserves, embrace all mutual insurance companies (other than mutual life and mutual marine and companies exempt); interinsurance and reciprocal exchanges and returns of annual net income should be made on special form (No. 1030A), provided for that purpose. (T. D. 2690; art. 242.)

Mutual marine insurance companies may include in deductions amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts, between date of ascertainment thereof and date of payment thereof, such amounts and interest having been included in gross income, which amounts deducted from gross income should be fully set forth in supplementary statement of return form. (T. D. 2690; art. 243.)

—— —— **Repairs.**

Expenditures for incidental repairs which do not add to value nor appreciably prolong life of property are deductible as expenses by insurance companies other than mutuals, but including mutual life and mutual marine, but expenditures for new buildings, permanent improvements, or betterments, which increase value of property, or for restoring or replacing property, are not deductible; such expenditures are properly chargeable to capital account, to be extinguished through annual depreciation allowances. (T. D. 2690; art. 240.)

—— —— **Taxes.**

Taxes paid by companies other than mutuals, but including mutual life and mutual marine, on value of their capital stock outstanding and in hands of stockholders, are not deductible; such taxes are a primary liability of the stockholders and therefore chargeable against stockholders' income. (T. D. 2690; art. 240.)

—— **Insurance premiums.**

Section 32 of the act of September 8, 1916, providing that premiums paid for insurance covering lives of officers, etc., interested in business of corporation, shall not be deducted from gross income of corporation paying same, applies to all forms of life insurance, premiums upon which corporation may pay, whether or not cor-

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Net income—Continued.

—— **Insurance premiums**—Continued.

porations are beneficiaries of the insurance policies upon the death of the insured; all rules and regulations in conflict revoked. (T. D. 2690; art. 236.)

In computing its profits, partnership shall not deduct premiums on life insurance policies covering lives of members of partnerships, its employees, or those financially interested in the business or trade conducted by the partnership or otherwise. (T. D. 2690; art. 30.)

Premiums paid on life insurance policies covering lives of officers, employees, or those financially interested in any trade or business, conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing net income of insurance companies other than mutuals, but including mutual life and mutual marine. (T. D. 2690; art. 240.)

—— **Insurance reserves.**

Funds set aside by corporation for insuring its own property are not a proper deduction, but if such funds are set aside or a reserve therefor is set up, any loss actually sustained and charged to such funds or reserves may be deducted. (T. D. 2690; art. 144.)

—— **Interest.**

Corporations and joint-stock companies, keeping books of account on accrued basis, may deduct from gross income, in returns of annual net income, accrual of interest for the return year within limits prescribed by taxing acts when shown as a charge against accrued income upon the books of account. (T. D. 2625; Dec. 17, 1917.)

Where bonded or other indebtedness of leased or purchased line has been assumed by operating company, it may deduct from its gross income interest paid on such indebtedness, provided such interest plus interest paid on its own indebtedness is not in excess of limit fixed by law; in this event the leased or purchased line so long as it has a corporate existence will make return of annual net income, setting out that on its own account it has neither income nor expenses, and that both are taken up in return of operating company, naming it. (T. D. 2690; art. 125.)

Under paragraph "Third" of section 12(a), act September 8, 1916, maximum principal upon which deductible interest may be computed is amount of paid-up capital stock plus one-half of interest-bearing indebtedness outstanding at close of year; amount of interest thus computed at contract rate, if actually paid within year, may be deducted, or if accounts are kept on basis of other than actual receipts and disbursements, amount of interest actually accrued at contract rate, if computed on amount not in excess of maximum principal, may be deducted, provided it is so entered on books as to constitute liability against assets, and provided it does not include interest on indebtedness incurred in purchase of securities income from which is not subject to tax; in ascertaining maximum principal preferred stock will be considered as paid-up capital stock and not as indebtedness. (T. D. 2690; art. 180.)

Full amount of stock as represented by par value of shares issued and outstanding is regarded as paid-up capital stock, except when assessable on account of deferred payments or when payable in installments, in which case amount actually paid will constitute actual paid-up stock; where stock is issued without par or nominal value, paid-up capital stock for purpose of arriving at maximum principal will be amount of cash paid into corporation or cash value at time acquired of property given in exchange for such stock; when there is no capital stock, entire amount of capital (not including interest-bearing indebtedness) employed in business plus one-half of interest-bearing indebtedness outstanding at close of year, constitutes maximum principal upon which deductible interest can be computed. (T. D. 2690; art. 181.)

Capital employed in business, constituting one of the elements in computing allowable interest deductions, contemplates entire capital paid in by members of company, including so much of accumulated surplus as is actually used and employed in the business and properties of corporation, but does not include any borrowed capital or interest-bearing indebtedness. (T. D. 2690; art. 181.)

The qualifying phrase, "outstanding at the close of the year," as used in paragraph third of section 12 of the income-tax act, applies to paid-up capital stock or capital invested and interest-bearing indebtedness, which indebtedness, like the paid-up capital stock or capital invested, is required to be reported in making return of annual net income, as outstanding at close of year; from amount of investment to be so reported there must be eliminated all indebtedness incurred in purchase of securities income from which is not subject to tax. (T. D. 2690; art. 182.)

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Net income—Continued.

—— Interest—Continued.

Indebtedness which is to be reported in return for purpose of determining maximum principal upon which interest deduction is to be computed shall not include noninterest-bearing indebtedness. (T. D. 2690; art. 182.)

Where no indebtedness is outstanding at close of year, maximum deduction allowable will be amount of interest paid on amount of indebtedness (other than indebtedness incurred in purchase of securities income from which is exempt from tax) not exceeding at any time within year entire paid-up capital stock or capital employed in business outstanding at close of taxable year. (T. D. 2690; art. 182.)

Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during year, provided aggregate amount of indebtedness on which interest is paid does nor exceed limit prescribed by law and in case indebtedness is not in excess of amount on which the deductible interest may be legally computed; in such case indebtedness bearing highest rate may be first considered in computing interest deduction, and balance, if any, will be computed on indebtedness bearing next lower rate, and so on until interest on maximum principal allowed has been computed. (T. D. 2690; art. 183.)

Corporations owning property such as office buildings, hotels, apartment houses, etc., which are not for sale in ordinary business of corporation, but are held primarily for investment purposes or as a means by which business of corporation is carried on, and which are pledged as security for mortgaged notes or bonds upon which interest is paid, can not deduct such interest under deduction for expense of maintenance and operation, but shall include such interest payments, subject to the limitation of the law, under regular interest deductions. (T. D. 2690; art. 184.)

So-called interest on preferred stock, which is in reality a dividend thereon, can not be deducted in arriving at net income; for purpose of tax, dividends of whatever character can be paid only out of net income, and net income is subject to the tax, and for this purpose can not be reduced by any distribution among or payment to its stockholders. (T. D. 2690; art. 185.)

Interest paid pursuant to contract on indebtedness secured by mortgage on real estate occupied and used by corporation in which corporation has no equity or to which it is not taking title, is allowable deduction as rental charge, payment of which is required to be made as condition to continued use and possession of property; where corporation has equity in or is purchasing for its own use real estate upon which such mortgage is prior lien, indebtedness will be held to be indebtedness of corporation within meaning of law, and interest paid on such mortgage will be deductible only to extent that, including interest on other obligations of corporation, it is within limit fixed by law. (T. D. 2690; art. 186.)

Interest calculated as being charge against income on account of capital or surplus invested in business, but which does not represent payment on interest-bearing obligation, is not an allowable deduction; that is to say, interest which money would earn if otherwise invested is not a deductible charge. (T. D. 2690; art. 187.)

Car-trust certificates secured by equipment are obligations of railroad company similar to corporate bonds, etc., and trustees in whose names legal title to equipment stands are not an association within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and are therefore not taxable, but they are, for purposes of such title, a fiscal agent paying off the obligations, both principal and interest, of railroad companies with funds appropriated by such companies; companies may mortgage such certificates in amount of bonded or other indebtedness reported under item 2 of return, Form 1031, and interest paid thereon with interest on other obligations will be deductible; if certificates contain provision by which obligor agrees to pay portion of tax imposed upon obligee, or reimburse obligee for any portion of tax, or pay interest without deduction for any tax, trustees, in making interest payments will, in absence of claims for exemption, where interest payments are made to individuals, withhold normal income tax on such payments regardless of amount thereof. (T. D. 2690; art. 188.)

Where trustees of sinking fund have invested amount of sinking fund received or any portion of it in bonds of corporation, and such corporation pays to trustees interest thereon, the corporation will be permitted to deduct such interest, provided amount thus paid, plus interest on any other outstanding indebtedness, does not exceed legal limit; interest paid to trustees, together with all other earnings on investments made by trustees of the sinking fund, must be included in gross income of corporation. (T. D. 2690; art. 189.)

In case of banks and banking associations, loan or trust companies, interest paid within year on deposits or on moneys received from investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking associa-

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Net income—Continued.

—— **Interest**—Continued.

tion, loan or trust company, may be allowably deducted from gross income of such corporation. (T. D. 2690; art. 190.)

In ascertaining net income of a corporation under section 2, paragraph G (b) (first) of the act of October 3, 1913, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

—— **Lobbying expenses.**

Sums of money expended for lobbying purposes, promotion or defeat of legislation, and exploitation of propaganda, are not an ordinary and necessary expense in operation and maintenance of business, and are therefore not deductible. (T. D. 2690; art. 143.)

—— **Local assessments.**

Assessments paid for local benefits imposed because of and measured by some benefit inuring directly to property against which assessment is levied, do not constitute allowable deduction; such assessments are not deductible even though an incidental benefit may inure to the public welfare. (T. D. 2690; art. 194.)

—— **Losses.**

When corporation, as result of suit or otherwise, secures payment for damages which it may have sustained, and amount of such payment is less than damage sustained, or less than an amount necessary to make good the damage, difference between actual amount of damage sustained and amount recovered will be deductible as a loss. (T. D. 2690; art. 94.)

Where shares of capital stock are sold at a discount, amount of discount is not a loss deductible from operating income. (T. D. 2690; art. 97.)

Unissued stock retained by corporation for purpose of future sale, will not be considered treasury stock and there will be no deductible loss if such stock is sold at a price less than par. (T. D. 2690; art. 98.)

Where buyer of property of corporation sold on installment plan, title passing at time of sale, forfeits his contract and fails to meet any of the payments contracted to be made, selling corporation may deduct from its gross income as a loss, such proportion of defaulted payments as was previously returned as gross income. (T. D. 2690; art. 116.)

Where corporation sells merchandise on installment basis, title passing to vendee at time of sale, if purchaser defaults in payment and account becomes uncollectible and the uncollected balance is charged off, amounts so charged off may be deducted as a loss. (T. D. 2690; art. 120.)

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if, for any reason, vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned, for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

Deduction for losses must represent losses not compensated for by insurance or otherwise and which were charged off and actually sustained within year as evidenced by closed and completed transactions. (T. D. 2690; art. 147.)

Losses properly deducted on account of bad debts or doubtful accounts are those definitely ascertained to have occurred and which are charged off during year for which return is made; not essential that debt or account shall be proved worthless by legal proceedings, but corporation must not only be satisfied that debt or account is worthless, but must be able to satisfy commissioner or collector that accounts charged off were definitely determined at the time to be worthless and that they had not been recognized as worthless or without value prior to beginning of year for which return is made; deduction permissible only when debt or account is written out of the assets of the corporation. (T. D. 2690; art. 151.)

Corporation engaged in raising and selling live stock can not deduct amounts claimed as loss on account of death of such stock through exposure or otherwise, unless and to extent that such stock was specifically paid for in cash or its equivalent; if stock is raised and fed upon farm or range, cost of feeding and raising will be included as operating expense, and no loss of capital is sustained when live stock perishes; if stock was purchased and cost thereof was not charged into expenses and

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Net income—Continued.

—— **Losses**—Continued.

as such deducted from gross income, deductible loss will be actual purchase price less any depreciation which had been previously charged off and deducted. (T. D. 2690; art. 154.)

Any amount paid pursuant to judgment or otherwise on account of damages is deductible from gross income to the extent of, and when amount is actually paid, less any amount of such damages as may have been compensated for by insurance. (T. D. 2690; art. 158.)

—— **Materials, cost of.**

Corporations carrying materials and supplies on hand should include in expenses the charges for materials and supplies only to amount that the same are actually consumed and used in operation and maintenance during year for which return is made, provided that cost thereof has not been taken into account in determining net income for any previous year; if no record of consumption is kept or if physical inventories at beginning and end of year are not taken, corporation may include in expenses total cost of supplies and materials purchased during year for which return is made. (T. D. 2690; art. 130.)

—— **Merchandise in stock.**

Depreciation computed on total invoice cost of merchandise in stock is not an allowable deduction, except that if portion of such merchandise is unsalable by reason of obsolescence or damage, depreciation deduction not in excess of decline in value during taxable year will be allowed. (T. D. 2690; art. 169.)

Reasonable allowance for wear and tear of property arising out of its use or employment in business or trade is to be based upon cost of such property or on its fair market price or value as of March 1, 1913, if acquired prior thereto; in absence of proof to contrary it will be assumed that such value as of March 1, 1913, is cost of property, less depreciation up to that date. (T. D. 2754; Aug. 23, 1918.)

—— **Obsolescence.**

No deduction from inventory value of merchandise or material will be allowed except where inventory includes goods or materials which, by reason of obsolescence or damage, are unsalable; when such deduction is claimed facts connected therewith, including statement of cost of goods, value at which they were inventoried, and present condition, must be filed with return. (T. D. 2690; art. 160.)

Where patent becomes obsolete prior to its expiration, corporation may deduct from gross income such proportion of its original cost (less any amount previously charged off) as number of years of its remaining life bears to whole number of years intervening between date it was acquired and date it legally expires. (T. D. 2690; art. 174.)

Where designs, drawings, patterns, or models, for which corporation has made expenditures, result in production of goods which prove to be salable for certain length of time and then become obsolete and can not be sold, amount expended for such designs, etc., less any amounts claimed as depreciation or as return of capital, may be charged off, be included in, and deducted as loss incident to business, provided full and complete information is reported to satisfaction of Commissioner of Internal Revenue. (T. D. 2690; art. 177.)

Amounts representing losses on account of obsolescence of physical property may be included as deduction from gross income as a loss, provided such amounts have been recorded in books following condemnation and withdrawal from use of the obsolete property; amount of obsolescence that may be claimed as deduction shall be ascertained by deducting from cost of property total amount previously claimed and deducted on account of depreciation, plus residual value at time of obsolescence, or plus amount received for sale of property; obsolescence deduction must not include accumulated depreciation applicable to prior years. (T. D. 2690; art. 178.) Deduction should be based on value as of March 1, 1913, or cost. (T. D. 2754; Aug. 23, 1918.)

Where no depreciation has been charged off and deducted from gross income of prior years, amount allowable as deduction for year in which property becomes obsolete shall be ascertained by deducting from such property its residual value plus amount equal to depreciation actually sustained during the prior period and which might have been deducted when computed at rate applicable to same or similar property; amount of such depreciation as applicable to former years may be made basis of amended returns and claim for refund of taxes overpaid by reason of fact that no depreciation deduction was claimed in those years. (T. D. 2690; art. 179.)

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Net income—Continued.

—— **Patents.**

Corporation disposing of patents by sale should determine profit or loss arising therefrom by computing difference between selling price and the cost or value as of March 1, 1913, if acquired before that date; apparent profit or loss should be increased or decreased, as case may be, by amounts deducted since March 1, 1913, as return of capital invested in such patents. (T. D. 2690; art. 109.)

Owner of patent may deduct from gross income each year until capital invested therein is extinguished, sum ascertained by dividing cost of patent by number of years constituting its life or by number representing years of its life remaining after date of acquirement. (T. D. 2690; art. 113.)

Corporations disposing of patents by sale should determine profit or loss by computing difference between selling price and value as of March 1, 1913, if acquired prior to that date, or between selling price and cost, if acquired subsequent to such date; profit or loss thus ascertained should be increased or decreased, as case may be, by amount deducted on account of depreciation of such patents since March 1, 1913, or since date of purchase if acquired after that date. (T. D. 2690; art. 157.)

Deduction for any given year for return of capital invested in patents at time of issue will be an amount equal to one-seventeenth of actual cost, in cash or its equivalent, of such patents; where patent has been secured from Government its cost will be represented by various Government fees, cost of drawings, models, attorney's fees, etc., actually paid, but where patent has been purchased for cash consideration, amount paid therefor would represent capital invested therein; where payment for patent was made in stocks or other securities, actual cash value of such stock or securities at time of purchase will represent cost or capital invested; if patent was purchased after part of its life had expired, cost for purpose of deduction for return of capital will be ratably spread over remaining years of its life; in determining amount deductible on account of expiring life only actual cost and not estimated value as of March 1, 1913, or any other date, will be considered. (T. D. 2690; art. 174.)

—— **Pensions.**

Amounts paid for pensions to retired employees or to their families or others dependent on them, or on account of injuries received by employees, or lump-sum amounts paid as compensation for injuries are proper deductions as ordinary and necessary expenses; such deduction shall be limited to amount not compensated for by insurance or otherwise; no deduction shall be made for contributions to pension fund, resources of which are held by corporation, amount deductible in such case being amount actually paid to employee. (T. D. 2690; art. 136.)

—— **Public utilities' earnings.**

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

—— **Purchase of assets of other corporation.**

Where one corporation buys assets of another and issues direct to selling company its own capital stock in payment for such assets, if excess of value of stock taken in payment for assets over value of assets sold, as of March 1, 1913, or over cost, as case may be, includes any surplus earned since March 1, 1913, upon which income tax has been paid, excess of profits resulting from sale may be reduced by amount of such tax-paid surplus. (T. D. 2690; art. 124.)

—— **Real estate subdivisions.**

Where real estate corporation purchases tract of land with view to dividing it into lots or parcels to be sold as such and loss results from sale, amount of loss to be deducted will be ascertained in like manner as if gain had been realized and will be amount by which selling price is less than the value, as of March 1, 1913, or less than the cost, if acquired subsequent to that date, as the case may be. (T. D. 2690; art. 117.)

In case of real estate corporations purchasing tract of land with view to dividing it into lots or parcels to be sold as such, entire value as of March 1, 1913, or cost, if acquired subsequent to that date, shall be equitably apportioned to the several

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Net income—Continued.

—— **Real estate subdivisions**—Continued.

lots or parcels so that any gain derived may be returned as income for year in which sale was made; rule contemplates that there will be gain or loss in every sale and does not contemplate that capital invested in entire tract shall be extinguished before any taxable income shall be returned; sale of each lot or parcel will be treated as separate transaction and gain will be accounted for accordingly. (T. D. 2690; art. 117.)

—— **Removal or demolition of buildings, etc.**

See "Destruction of property" under this subhead.

Loss due to voluntary removal or demolition of old buildings, scrapping of machinery, equipment, etc., incident to renewals and replacements, will be deductible in amount representing difference between cost of such property and amount measuring reasonable allowance for depreciation which property had undergone prior to its demolition or scrapping. (T. D. 2690; art. 155.)

When corporation buys real estate upon which is located building or buildings which it proceeds to raze with view to erecting thereon other building or buildings, it will be held that corporation has sustained no deductible loss by reason of demolition of old building or buildings; in such case it will be considered that value of real estate, exclusive of old improvements, is equal to purchase price of land and buildings. (T. D. 2690; art. 156.)

—— **Retirement of bonds.**

Where corporation, under terms of its indenture securing issue of bonds is required at certain specified period to purchase and retire certain number of its bonds and in doing so pays more than par for the bonds, loss sustained is allowable as deduction from gross income for year in which purchase is made, under certain specified conditions. (T. D. 2690; art. 152.)

—— **Royalties.**

See "Patents," under this subhead.

—— **Sale by subsidiary to parent corporation.**

Where subsidiary or other corporation sells or transfers assets to parent or other corporation, accepting in exchange therefor stock or bonds of purchasing corporation, question of gain or loss will be determined upon basis of difference between cost or market value of assets sold and actual value of stock or bonds given in exchange therefor; any gain or loss thus ascertained as resulting from such transaction will be added to or deducted from entire gross income, as case may be, of selling corporation in year in which capital assets were sold. (T. D. 2690; art. 119.)

—— **Sale of assets.**

In case of sale of assets, real, personal, or mixed, loss will be difference between cost thereof or value as of March 1, 1913, if acquired before that date, and price at which disposed of. (T. D. 2690; art. 147.)

—— **Shrinkage in securities.**

Corporation possessing securities can not allowably deduct amount claimed as loss on account of shrinkage in value through fluctuation of market or otherwise; only loss to be allowed is that suffered when securities mature or are disposed of; in case of banks or other corporations subject to supervision by State or Federal authorities, and which, in obedience to orders of supervisory officers, charge off as losses amounts represented as alleged shrinkage in value of property, amounts so charged off do not constitute allowable deductions; this applies only to owners and investors and not dealers in securities, as to which see T. D. 2609. (T. D. 2690; art. 148.)

District irrigation bonds generally are a lien upon real estate affected by irrigation project, and until corporation holding such bonds has taken necessary action to protect its interest and enforce collection of such bonds corporation will not be allowed to deduct face value or any estimated amount supposed to represent loss or shrinkage in value of such bonds; any estimated shrinkage in value does not constitute loss within meaning of Title I of the act of September 8, 1916, as amended by act of October 3, 1917; so long as value of security is uncertain or unknown loss can not definitely be ascertained and is therefore not deductible. (T. D. 2690; art. 153.)

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Net income—Continued.

—— **Sinking-fund reserve.**

When corporation sets aside part of its earnings to create sinking fund with which to retire indebtedness, annual additions to such fund are not allowable deductions from gross income as or in lieu of depreciation or on any other account; earnings thus set aside are an asset, and any accretion thereto must be accounted for as income; ruling will not, however, forbid deduction or reasonable allowance for depletion of natural deposits even though amount so deducted be used in whole or in part in payment of its indebtedness. (T. D. 2690; art. 166.)

—— **Spending or treating money.**

So-called "spending or treating money," actually advanced by corporations to their traveling salesmen to be used by them as part of expense incident to selling product is allowable deduction, but deduction is conditioned upon satisfactory showing that all allowance claimed was actually expended for and was an ordinary and usual expense incurred in selling the product or merchandise of the corporation. (T. D. 2690; art. 133.)

—— **Taxes.**

Taxes imposed against corporation by authority of the United States (except income and excess-profits taxes), its Territories, or any foreign country, or by authority of any State, county, school district, municipality, or other taxing subdivision of a State (not including those assessed against local benefits), and paid within year for which return is made, are deductible from gross income of domestic corporation. (T. D. 2690; art. 191.)

Taxes imposed against foreign corporation by authority of United States (except income and excess-profits taxes), its territories, or any foreign country, or by authority of any State, county, school district, municipality, or other taxing subdivision of a State (not including those assessed against local benefits) and paid within year for which return is made, such corporation receiving income from any source within United States, are deductible from gross income received from such source, except that taxes imposed by a foreign Government and paid by a foreign corporation are not deductible from gross income received by it from sources within United States. (T. D. 2690; art. 191.)

Banks paying taxes assessed against stockholders on account of ownership of shares of stock issued by such banks can not deduct amount of taxes so paid unless and to extent that laws of State in which they do business by specific terms make tax direct liability of such banks; fact that State laws make it duty of banks to pay tax does not necessarily make tax a liability of the banks, and such payments are not deductible from gross income of such banks; rule applies only to taxes levied upon value of capital stock, and is not intended to prevent bank from deducting any State tax imposed on value of corporation's real estate, furniture and fixtures, or as an excise or franchise tax; rule applies in case of corporations other than banks, upon value of whose stock taxes are assessed to the stockholders. (T. D. 2690; art. 192.)

Where bonds or other forms of indebtedness are issued with guaranty that interest thereon shall be free from taxation as against holder, corporation paying tax pursuant to guaranty will not be permitted to deduct tax so paid, as contract is not binding upon or recognized by Government in determining tax liability of corporation. (T. D. 2690; art. 193.)

Taxes deductible are those levied for the public welfare by the proper taxing authorities at a like rate against all property and territory over which such authorities have jurisdiction, so that assessments paid for local benefits, and other like assessments, imposed because of and measured by some benefit inuring directly to property against which assessment is levied, do not constitute an allowable deduction. (T. D. 2690; art. 194.)

Import or tariff duties levied by Congress and paid to proper customs officers, stamp taxes, and all other taxes (except income and excess-profits taxes) imposed by internal revenue laws and paid to collectors are deductible as taxes imposed under authority of United States, provided they are not added to and made a part of the cost of articles of merchandise with respect to which they are paid, in which case they will be reflected in cost of merchandise and can not be separately deducted. (T. D. 2690; art. 195.)

—— **Trade-marks and trade brands.**

No deduction will be allowed for depreciation of trade-marks and trade brands; if such assets shall have been purchased at a determined price and shall be later sold at a price less than cost or less than their determined fair market value as of

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Net income—Continued.

—— **Trade-marks and trade brands**—Continued.

March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such assets were sold. (T. D. 2690; art. 168.)

—— **Trading stamps, etc.—Redemption.**

Corporations which issue trading stamps, coupons, etc., for purpose of increasing business, which stamps or coupons are redeemable in merchandise, may deduct, as business expense, amount which such corporations actually expend for such stamps or coupons, and also actual cost of merchandise given in redeeming same. (T. D. 2690; art. 141.)

—— **Undistributed net income.**

All dividends received in 1917, even though paid by corporations from earnings of previous years, constitute income to the recipients for 1917; method of ascertaining precise rate applicable to such portions of dividends received in 1917 stated; taxpayers reporting dividends received at other than 1917 rates required to render statement showing corporations from which such dividends were received, with amount of dividend received from each. (T. D. 2659; Feb. 28, 1918. See T. D. 2736; June 18, 1918.)

Where there is any doubt whether earnings of corporation in 1917 up to date of dividend payment in that year were sufficient to cover dividend payment, corporation may distribute earnings for accounting period within which dividend or dividends in question were paid, ratably over the period, for purpose of determining amount of earnings during period up to date of payment; this decision should be read in connection with instructions set forth in T. D. 2659. (T. D. 2678; Mar. 23, 1918. See T. D. 2736; June 18, 1918.)

In determining source of earnings from which particular distribution is made, corporation may treat undivided profits and surplus of current year as reduced by payments for income and excess-profits taxes, or if keeping its accounts upon an accrual basis by proper reserves for such taxes, although such payments or reserves are not deductible in computing income of corporation for income and excess-profits taxes. (T. D. 2700; Apr. 16, 1918. T. D. 2736; June 18, 1918.)

Restrictions as to distribution of earnings of previous taxable years resulting from presumption that all current distributions are from current earnings do not apply to use of earnings for investments by corporations; the acts of September 8, 1916, and October 3, 1917, contain no limitations or restrictions as to source from which may be taken earnings used for this purpose; amounts invested in obligations of United States issued after September 1, 1917, may thus be treated as made from such earnings as the corporation may designate. (T. D. 2700; Apr. 16, 1918.)

Every corporation, joint-stock company and association, and insurance company, domestic or foreign, coming within terms of Title I of the act of September 8, 1916, as amended by Title XII of act of October 3, 1917, which was subject to taxation upon total net income received during preceding taxable year, is subject to provisions of section 10 (b) added to act of September 8, 1916, by section 1206 of act of October 3, 1917, which impose tax upon undistributed net income. (T. D. 2736; June 18, 1918.)

Amount of undistributed net income subject to 10 per cent tax imposed by section 10 (b) of the act of September 8, 1916, as amended, is to be determined as of a date six months after end of taxable year; changes in amount of such undistributed income after such date do not change amount subject to such tax; Commissioner of Internal Revenue has no authority to change date as of which amount of undistributed net income subject to such tax is determined, either in case of taxable year ending before October 3, 1917, or of any other taxable year. (T. D. 2736; June 18, 1918.)

Net income received by corporation, joint-stock company or association, or insurance company, during its taxable year remains undistributed until it is distributed in form of dividends, whether it is represented by liquid assets or otherwise; income distributed in form of dividends is subject to provisions of section 31 (b) added to act of September 8, 1916, by section 1211 of act of October 3, 1917; burden is upon corporation, etc., seeking to establish distribution in current year of profits of preceding taxable year to show that all earnings of current year have been first distributed; in determining source of earnings from which particular distribution is made corporation may treat undivided profits and surplus of current year as reduced by payments for income and excess-profits taxes, or if keeping accounts on accrual basis by proper reserves for such taxes. (T. D. 2736; June 18, 1918.)

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Net income—Continued.

—— **Undistributed net income**—Continued.

Undistributed income which is actually invested and employed in business is not subject to 10 per cent tax imposed by section 10 (b) of the act of September 8, 1916, as amended; undistributed income is used or employed in the business if invested in increased inventories or additions to plant reasonably required by business, or if used for payment of income and excess-profits taxes for taxable year, provided amounts so paid are designated upon books as made from income of such taxable year, or if used to make good an impairment of capital when such income is by law required to be so used, or if used to retire whole or any part of capital stock, but reserves set up for this purpose are neither invested and employed in the business, nor retained for employment in reasonable requirements of business; in case of banking institutions, business of which is to receive and loan money, using capital, surplus, and deposits for this purpose, undistributed income actually represented by loans is invested and employed in the business. (T. D. 2736; June 18, 1918.)

Portion of undistributed net income which is retained for employment in reasonable requirements of business is not subject to 10 per cent tax imposed by section 10 (b) of act of September 8, 1916, as amended; undistributed income is retained for employment in reasonable requirements of business if to a reasonable amount it is retained to make good an impairment of capital when such income is by law required to be so used, or in accordance with contract requirements placed to credit of sinking fund for purpose of retiring bonds issued by corporation, or retained for working capital required by the business; in case of banking institutions, business of which is to receive and loan money, using capital, surplus, and deposits for this purpose, such reasonable amounts of undistributed income as are retained for future loans, are not subject to tax. (T. D. 2736; June 18, 1918.)

Undistributed net income invested in obligations of United States, issued after September 1, 1917, is not subject to 10 per cent tax imposed by section 10 (b) of act of September 8, 1916, as amended, but this is not true of obligations issued before September 1, 1917; restrictions as to distribution of earnings of previous taxable years resulting from presumption that all current distributions are from current earnings do not apply to use of earnings for investment by corporations; there is in the statutes no limitation or restriction as to source from which may be taken earnings used for this purpose; amounts invested in obligations of United States issued after September 1, 1917, may thus be treated as made from such earnings as corporation may designate. (T. D. 2736; June 18, 1918.)

Under section 10 (b) of the act of September 8, 1916, as amended, if Secretary of Treasury ascertains and finds that any portion of undistributed net income retained at any time for employment in business is not so employed, or is not reasonably required in the business, it is subject to tax of 15 per cent; liability of undistributed net income to 10 per cent tax depends upon manner in which it is invested on date six months after end of taxable year; however, status of income is not lost by investment, but persists for possible application of 15 per cent tax; amounts of undistributed income not subject to 10 per cent tax because of employment in business, etc., becomes subject to 15 per cent tax if retained after such investment, employment, or retention for employment in the reasonable requirements of the business, has ceased. (T. D. 2736; June 18, 1918.)

"The business" of a corporation is not limited to business which corporation has previously carried on, but includes any line of business which the corporation may legitimately undertake. (T. D. 2736; June 18, 1918.)

When one corporation owns stock of another in same or related line of business and in effect operates other corporation, business of such other falling within general scope of powers of first, that business may be in effect, although not in legal form, business of first corporation; income of first corporation may be put into second through purchase of stock or otherwise, and might, if subsidiary relationship is established, constitute employment of income in its own business; for such employment to fall within exception provided in section 10 (b) of the act of September 8, 1916, as amended, it would be essential for corporation to show same facts with reference to actual utilization of funds so employed, or their retention for its reasonable requirements which it would be necessary for corporation to show with reference to funds employed or retained directly by it. (T. D. 2736; June 18, 1918.)

Investment by corporation of income in securities of another corporation is not, without more, to be regarded as employment for the income in "the business"; business of one corporation may not be regarded as including business of another within meaning of exception in section 10 (b) of act of September 8, 1916, as amended unless other corporation is mere instrumentality of first; to establish this it is ordinarily essential that first corporation own all of the stock of the second. (T. D. 2736; June 18, 1918.)

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Net income—Continued.

—— **Undistributed net income**—Continued.

Amount of income subject to 10 per cent tax imposed by section 10 (b) of act of September 8, 1916, as amended, is to be ascertained by deducting from total net income received during taxable year as determined for purposes of annual tax imposed by section 10 (a), which remains undistributed six months after end of such taxable year, (1) amount of any income taxes imposed by authority of United States paid by corporation within such taxable year for income of that year, (2) such part of undistributed income as is actually invested and employed in the business, or (3) is retained for employment in the reasonable requirements of the business, or (4) is invested in obligations of United States issued after September 1, 1917; if taxable year began on or after January 1, 1917, remainder is amount upon which tax is assessed, but if taxable year began before January 1, 1917, proportion of such remainder which period between January 1, 1917, and end of such taxable year bears to whole of such taxable year is amount upon which tax is assessed; income received before beginning of taxable year ending in 1917 is not subject to tax even though remaining undistributed six months after end of such taxable year. (T. D. 2736; June 18, 1918.)

In determining amount of net income of taxable year "remaining undistributed" six months after its close, and not "invested and employed in the business," there may be subtracted the amount of contributions properly made for charitable or war purposes. (T. D. 2763; Oct. 21, 1918.)

In determining amount of net income of taxable year "remaining undistributed" six months after its close, and not "invested and employed in the business," there may in general be subtracted the amount of any interest paid by corporation but now allowed to be deducted for income tax purposes. (T. D. 2763; Oct. 21, 1918.)

Corporation unable to show by tracing into particular assets or into decrease of particular liabilities, the employment of undistributed net income in the business, may claim benefit of what may be shown by balance sheet for date of expiration of six months after taxable year, or by a comparative balance sheet as specifically indicated. (T. D. 2763; Oct. 21, 1918.)

Where resort is made to balance sheet in effort to show employment in business of all undistributed net income of taxable year or its retention for reasonable requirements of business, net income for six months after taxable year is necessarily to be taken into account and it must be shown that undistributed net income of taxable year as well as undistributed net income of the six months is so employed or retained. (T. D. 2763; Oct. 21, 1918.)

While corporation retains profits without distribution of dividends, it may retain them in such form as it may elect, but when distribution is made it must be treated as made from most recent profits or surplus regardless of any previous designation of any portion of such earnings for investment purposes. (T. D. 2763; Oct. 21, 1918.)

Designation of investment of earnings in obligations of the United States issued subsequent to September 1, 1917, may serve to prevent application of additional tax of 10 per cent to amount so invested, but does not warrant disregarding the amount of net income for taxable year so invested in determining profits or surplus from which any dividends may be distributed. (T. D. 2763; Oct. 21, 1918.)

Payment.

See "Collection and payment," *ante*.

Penalties—Delay in filing returns.

In case of failure to make and file return within prescribed time or within period of extension granted by collector, Commissioner of Internal Revenue shall add to the tax 50 per cent thereof, except that where a return is voluntarily filed after due date without notice from collector, and it is shown that delinquency was due to reasonable cause and not to willful neglect, no such addition shall be made to the tax; collector must note on return that it was voluntarily filed, and will procure from corporation statement, under oath, setting out cause for delay, and if such cause is found to be reasonable, 50 per cent addition will not be made; exemption from 50 per cent additional tax does not necessarily relieve corporation from liability to specific penalty of not to exceed $10,000. (T. D. 2690; art. 225.)

The time "prescribed by the collector," as used in section 3176, set out under section 16 of the income-tax act, relates to an extension of time, not exceeding 30 days from normal due date, on or before which return is required to be filed; that is to say, if upon application by a corporation an extension is granted by the collector, return must be filed on or before last day of extended period; otherwise the 50 per cent tax will be added, subject to the provisions of said section 3176. (T. D. 2690; art. 228.)

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Penalties—Continued.

—— Disclosure of returns.

Disclosure by collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person not legally authorized to receive same, of any information whatever contained in or set forth by any return of annual net income made pursuant to the law, is, by the act, made a misdemeanor, and is punishable by fine not exceeding $1,000, or by imprisonment not exceeding one year, or both in discretion of the court, and if offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government. (T. D. 2690; art. 229.)

—— Fraudulent returns.

Any person or officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with the intent to defeat or evade the assessment required by Parts II and III of Title I of the act of September 8, 1916, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution. (T. D. 2690; art. 232.)

In case false or fraudulent return is willfully made 100 per cent of amount of tax shall be added thereto; corporations, officers thereof, and other individuals, required to make, render, sign, or verify returns of corporations, are subject to specific penalties provided by law for making false or fraudulent returns. (T. D. 2736; June 18, 1918.)

—— Nonpayment of tax.

Upon failure to pay tax when due and for 10 days after notice and demand, penalty of 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month until paid shall be added to amount of tax, and to amount assessable on basis of net income there shall be added 50 per cent in case of refusal or neglect to make return, and 100 per cent in case of false or fraudulent return, and corporation so offending shall be liable to specific penalty not exceeding $10,000. (T. D. 2690; art. 231.)

If tax assessed on undistributed net income by section 10 (b) of the act of September 8, 1916, as amended, is not paid within 10 days after date of notice and demand therefor, collector must collect said tax with penalty of 5 per cent additional upon amount thereof and interest at rate of 1 per cent a month. (T. D. 2736; June 18, 1918.)

—— Refusal or neglect to file return.

Limitation of penalty for refusal or neglect by section 18 of the act of September 8, 1916, as amended, to $1,000, is enlarged as to corporations by section 14 (c) of that act, to $10,000, so that as to corporations, the penalty for delinquency or fraud is not less than $20 nor more than $10,000, and each officer of the corporation required to render, sign, or verify any return, who makes any false or fraudulent return or statement, will, in addition to a payment by the corporation, be subject to prosecution and on conviction to fine not exceeding $2,000 and imprisonment not exceeding 1 year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 54.)

In case of any failure to make and file return within time prescribed by law, 50 per cent of amount of tax shall be added thereto, except that when return is voluntarily and without notice from collector filed after such time, and it is shown that failure to file it was due to reasonable cause and not to willful neglect, no such addition shall be made to the tax; corporations, officers thereof, and other individuals required to make, render, sign, or verify returns of corporations, are subject to specific penalties provided by law for refusal or neglect to make such returns. (T. D. 2736; June 18, 1918.)

Rate of taxation.

The normal tax under act September 8, 1916, is 2 per cent on net income from all sources, while under act October 3, 1917, it is 4 per cent on net income from all sources except dividends from corporations whose income is subject to income tax, so that except as to dividends (which as income to corporations are subject to income tax at rate of 2 per cent only), the combined normal tax on income of corporations is 6 per cent. (T. D. 2690; art. 3.)

Under Parts II and III of Title I of act September 8, 1916, as amended, every corporation, joint-stock company, or association or insurance company organized in the United States, no matter how created or organized, except those specifically exempt under section 11 of such title, shall be subject to pay annually an income

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Rate of taxation—Continued.

tax of 2 per cent upon the entire net income received during the preceding calendar or fiscal year, as case may be. (T. D. 2690; art. 55.)

Under section 10 of Title I of act September 8, 1916, as amended, a tax of 2 per cent shall be levied, assessed, collected, and paid annually upon total net income received in preceding calendar year from all sources within United States by every corporation, etc., organized, authorized, or existing under laws of any foreign country. (T. D. 2690; art. 64.)

Under Title I of act October 3, 1917, an additional tax of 4 per cent, known as war income tax, is imposed on net income of corporations organized in the United States, except that for purpose of assessment of the additional 4 per cent tax net income of such corporations shall be credited with dividends received from other corporations subject to tax under act September 8, 1916, as amended, and act October 3, 1917. (T. D. 2690; art. 56.)

The additional tax of 4 per cent on net income imposed by act October 3, 1917, shall apply to foreign corporations in same manner as in case of domestic corporations, except that it shall apply only to income received from sources within United States. (T. D. 2690; art. 65.)

Rate imposed by Title I of the act of September 8, 1916, 2 per cent, shall apply to total net income received by every taxable corporation, joint-stock company or association, or insurance company, in calendar year 1916 and in each year thereafter, except that if it has fixed its own fiscal year under provisions of existing law, such rate shall apply to proportion of total net income returned for fiscal year ending prior to December 31, 1916, which the period between January 1, 1916, and end of such fiscal year bears to whole of such fiscal year; rate of 1 per cent shall apply to remaining portion of total net income returned for such fiscal year. (T. D. 2690; art. 82.)

For purpose of 4 per cent additional tax imposed by act of October 3, 1917, in case of corporation making return on basis of its own fiscal year other than calendar year, such tax for fiscal year ending during calendar year 1917, shall be levied only on that proportion of its net income (less dividends received) which period from January 1, 1917, to end of fiscal year, bears to entire fiscal year; if last previous return was made for period ended December 31, 1916, and return is made for fiscal period ended with last day of some month in 1917, tax will be computed on entire net income so returned; also in case of new corporation making return for period from date of organization to close of calendar year, tax will be computed on entire net income so returned. (T. D. 2690; art. 82.)

Corporation declaring and paying dividends out of a surplus of earnings accumulated over a period of years, should make record in its books of amount of dividends paid out of each year's undistributed surplus or profits and advise stockholders accordingly, in order that dividends received by them may be taxed at respective rates prevailing during years in which surplus or profits so distributed were earned; provisions of subdivision (b) of section 31 do not apply to distributions made prior to August 6, 1917, out of earnings or profits accrued prior to March 1, 1913. (T. D. 2690; art. 107. See T. D. 2659, Feb. 28, 1918; T. D. 2734, June 17, 1918; T. D. 2740, June 24, 1918.)

Refund claims.

See "Claims."

Regulations published.

Regulations No. 33, governing collection of income taxes imposed by act of September 8, 1916, as amended by act of October 3, 1917, published. (T. D. 2690.)

Retroactive operation of act.

The retroactivity of the act of October 3, 1913, to March 1, 1913, a date not prior to the adoption of the 16th amendment to the Constitution, is permissible. (T. D. 2731; June 11, 1918. Ct. Dec.)

An income tax may be and was imposed by retrospective law. (T. D. 3043; July 2, 1920. Ct. Dec.)

Returns—Absence of officer.

Absence of one or more officers, at time return is required to be filed, will not be accepted as reasonable cause for failure to file return within prescribed time, unless it is satisfactorily shown that there were no other principal officers available and sufficiently informed as to affairs of corporation to make and verify return. (T. D. 2690; art. 223.)

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Returns—Continued.

—— **Accuracy.**

Each corporation should carefully prepare return so as to fully and clearly set forth data therein called for; imperfect or incorrect returns will not be accepted as meeting requirements of law. (T. D. 2690; art. 216.)

—— **Affiliated corporations.**

Where affiliated corporation has made its income tax return on basis of taxable year different from that on basis of which consolidated excess profits tax return in which it is included has been made under provisions of articles 77 and 78 of Regulations No. 41 and of T. D. 2662, amended income tax return may be made on basis of same taxable year as consolidated return, even though notice was not given within time prescribed in articles 211 and 215, inclusive, of Regulations No. 33, revised; in such case amended income tax return shall also be made for any unaccounted-for portion of the corporation's taxable year. (T. D. 2805; Mar. 14, 1919.)

—— **Amendment.**

Where corporation discovers expenses or liabilities which were due and payable during preceding year, it may make amended return for year to which such expense or liability applies, include such expense in deductions of that year, and file claim for refund for any taxes overpaid by reason of failure to deduct such expense or liability in original return of that year. (T. D. 2690; art. 128.)

—— **Change of corporate name.**

Where business was continuous throughout year, no change in management or operation other than change in name of corporation having occurred, return should be made covering business transacted throughout the year, such return to be made by corporation in name which it bears at end of year, with notation on return that name had been changed, giving both old and new names; if, however, distinctly new corporation was organized to take over property of old, both corporation will be required to make separate returns, covering periods of year during which they were respectively in charge of business. (T. D. 2690; art. 206.)

—— **Completeness.**

Each year's return, both as to income and deductions therefrom, must be complete within itself; charges against income can not be cumulative, but must be deducted from income of year in which incurred or not at all; expenses, liabilities, or deficit of one year can not be used to reduce income of subsequent year; deductions must in all cases be such as are authorized and within limits fixed by law. (T. D. 2690; art. 127.)

—— **Copies.**

When assessments shall have been made returns shall be filed in office of commissioner and shall constitute public records, subject to inspection upon order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President; copies of returns on file in commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear the impress of the seal. (T. D. 2690; art. 226.)

At request of Attorney General or a United States district attorney, certified copies of returns may be made by Commissioner of Internal Revenue and delivered to United States district attorneys for use as evidence in prosecution or defense of suits in which collection or legality of income tax assessed on basis of such returns is involved, or, by special permission of Secretary of the Treasury, such certified copies of returns may be furnished as evidence in any suit to which United States Government and the corporation, etc., making returns are parties, or as evidence before any United States grand jury, and in which, in opinion of Attorney General, such certified copies would constitute material evidence. (T. D. 2690; art. 227.)

Original income return or copy thereof may be furnished by Commissioner to United States attorney for use as evidence before United States grand jury or in litigation in any court, where the United States is interested in the result, or for use in preparation for such litigation, or to attorney connected with Department of Justice designated by Attorney General to handle such matters if and when

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Returns—Continued.

—— **Copies**—Continued.

Attorney General states to Commissioner in writing that such attorney is so designated; return of copy thereof thus furnished must be limited in use to purpose for which furnished and is under no conditions to be made public, except where publicity necessarily results from such use; where original return is necessary, it shall be placed in evidence by the Commissioner for that purpose, and after being placed in evidence it shall be returned to files in office of Commissioner in Washington; original return will be furnished only in exceptional cases, and then only when it is made to appear that ends of justice may otherwise be defeated; neither the original nor a copy desired for use in litigation where United States Government is not interested and where such use might result in making public the information contained therein will be furnished, except as otherwise provided in the next succeeding paragraph. (T. D. 2962; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

—— **Disclosure.**

Copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear impress of the seal. (T. D. 2690; art. 226.)

Disclosure by collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person not legally authorized to receive same, of any information whatever contained in or set forth by any return of annual net income made pursuant to the law, is, by the act, made a misdemeanor, and is punishable by fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, in discretion of the court, and if offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government. (T. D. 2690; art. 229.)

When assessments shall have been made returns shall be filed in office of Commissioner and shall constitute public records, subject to inspection upon order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President; copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear the impress of the seal. (T. D. 2690; art. 226.)

Proper officers of State imposing income tax are entitled as of right upon request of its governor to have access to income and profits tax returns of corporation, etc., or to abstract thereof, showing its name and income; proper officers in this connection are only those officers of the State charged with enforcement of the State income tax law and who are to use the information gained by the access only in connection with such enforcement; contents of request or application of governor, which must be in writing, signed by him under the seal of his State, and be addressed either to the Secretary of the Treasury or to the Commissioner of Internal Revenue, stated; access shall be given only in the office of the Commissioner, and the officers designated by the governor will not be permitted to name another person to examine the returns or abstracts for them, and the officers designated will be given access only to returns of those corporations, etc., organized and doing business in their State. (T. D. 2962; Jan. 7, 1920.)

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Returns—Continued.

—— **Disclosure**—Continued.

Return of corporation shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; upon satisfactory evidence of identity and official position, by the president, vice president, secretary, or treasurer of such corporation, or, if none, its principal officer; and by a stockholder of such corporation under certain circumstances. (T. D. 2961; Jan. 7, 1920.)

Stockholder of record owning 1 per cent or more of the stock of the outstanding stock of a corporation may be permitted to inspect its return; permission will only be granted upon application in writing to Commissioner accompanied by affidavit showing certain facts; this privilege of inspection is personal and will be granted only to the stockholder. (T. D. 2961; Jan. 7, 1920.)

A person who, under the regulations, is permitted to inspect a return may make and take copy thereof or memorandum of data contained therein. (T. D. 2961; Jan. 7, 1920.)

Written statement filed with Commissioner designed to be supplemental to and to become part of tax return shall be subject to same rules and regulations as to inspection as are tax returns themselves. (T. D. 2961; Jan. 7, 1920.)

Except as otherwise provided, Commissioner may, in his discretion, upon written application setting forth fully reasons for request, grant permission for inspection of returns; application will be considered by Commissioner and decision reached by him whether applicant has met conditions imposed by regulations and whether reasons advanced for permission to inspect are sufficient to permit the inspection; such written application is not required of officers and employees of the Treasury Department whose official duties require inspection of a return, or of the Solicitor of Internal Revenue. (T. D. 2961; Jan. 7, 1920.)

When it becomes necessary for the department to furnish returns or copies thereof for use in legal proceedings, inspection of such returns or copies that necessarily results from such use is permitted. (T. D. 2961; Jan. 7, 1920.)

Except as to returns or copies thereof for use in legal proceedings, returns may be inspected only in the office of Commissioner of Internal Revenue, Washington, D. C. (T. D. 2961; Jan. 7, 1920.)

When head of executive department (other than Treasury Department) or any other United States Government establishment, desires inspection of return in connection with some matter officially before him, the inspection may, in discretion of Secretary of the Treasury, be permitted upon written application to him by head of such department or other Government establishment, such application to be signed by such head and to show why inspection is desired, name and address of taxpayer who made return; and name and official designation of one it is desired shall inspect the return; the reason submitted for permission to inspect the return shall be considered by the Secretary and decision reached by him whether reasons are sufficient to permit inspection. (T. D. 2961; Jan. 7, 1920.)

—— **Discounts.**

Corporation loaning money by discounting bills or notes required to state in memorandum attached to its return which of two methods was used in determining amount of discount returned as income. (T. D. 2690; art. 114.)

—— **Dissolved corporations.**

Corporation which was dissolved in 1917, prior to passage of the act of October 3, 1917, will make return on Form 1031, revised, covering period in 1917 during which it was in business prior to its dissolution; if it shall have previously made return covering this period and shall have paid any excess profits tax under act of March 3, 1917, it shall be entitled to credit for amount of tax so paid against any excess profits tax assessed against it under Title II of the act of October 3, 1917. (T. D. 2690; art. 61.)

All corporations having existence as such during all or any portion of year, unless specifically exempt, are required to make returns; corporations dissolved during year and whose fiscal year coincides with calendar year will make returns covering period from January 1 to date of dissolution, and such corporations having fiscal year other than calendar year will make returns covering period from beginning of fiscal year to date of dissolution, and new corporations will make returns for period from date of organization to December 31, unless fiscal year is designated in proper manner in which case returns for period from date of organization to close of fiscal year so established in no case to exceed 12 months, will be filed. (T. D. 2690, art. 203.)

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Returns—Continued.

—— **Dividends paid.**

Section 26 of the act of September 8, 1916, as amended, requires corporations under certain circumstances to render return, setting out amount of dividends paid during year covered by such return, names and addresses of stockholders, number of shares owned by each, tax years in which amounts distributed were earned, and amounts so distributed to each stockholder applicable to each of such years; such return will be made upon form prescribed and will be forwarded direct to office of Commissioner of Internal Revenue within 10 days from receipt of notice requiring same. (T. D. 2690; art. 237.)

—— **Exempt corporations.**

When corporation or organization has established its right to exemption under section 11 of the act of September 8, 1916, as amended, it will be unnecessary for it to make return or any further showing thereafter with respect to its status under the law, unless it changes the character of its organization or purpose for which originally created. (T. D. 2690; art. 80.)

—— **Farmers—Accounts.**

Farmers who keep books according to some approved method of accounting, which clearly show net income, and take annual inventories, may prepare returns in accordance with showing made by such books and inventories; ascertainment of gross income where inventory method is adopted by farmer. (T. D. 2665; Mar. 8, 1918.)

—— —— **Deductions.**

Amount expended in purchasing stock for resale is an investment of capital and is not to be taken as an item of expense for year in which stock was purchased or for any subsequent year, but when stock so purchased is sold its cost is to be deducted from sales price in ascertaining amount of gain or profit returnable for tax purposes; return where cost of stock or farm products purchased in 1916 or any previous year for resale has been claimed as a deduction. (T. D. 2665; Mar. 8, 1918.)

All items of expense connected with the planting, cultivating, harvesting, and marketing of a crop, or the care, feeding, and marketing of live stock, may be claimed as deductions only in the return rendered for the year during which such expenditures were made; this applies even though crop or stock may not have been sold or exchanged for money or money equivalent during year for which return is rendered. (T. D. 2665; Mar. 8, 1918.)

—— —— **Definitions.**

The term "farm," as used in instructions governing preparation of income tax returns by farmers, held to embrace farm in the ordinarily accepted sense, and includes plantations, ranches, stock farms, dairy farms, poultry farms, truck farms, and all land used for similar purposes. (T. D. 2665; Mar. 8, 1918.)

All corporations, partnerships, or individuals who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are farmers for the purposes of instruction governing preparation of income tax returns by farmers. (T. D. 2665; Mar. 8, 1918.)

—— —— **Exchange of produce for merchandise.**

Where farmer exchanges farm produce for merchandise, groceries, or mill products, the market value of the article or product received in exchange is to be returned as income. (T. D. 2665; Mar. 8, 1918.)

—— —— **Inventories.**

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock and products on hand at the close of the year, and then deduct amount expended in purchasing live stock and products plus inventory of live stock and products at beginning of year; no deduction can be made for stock or products lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase or age or other causes; cost price of articles sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

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Returns—Continued.

—— **Farmers**—Continued.

—— —— **Necessity.**

If, in course of their business, farmers', fruit growers', or like association, organized and operated as sales agent to market products of its members, purchase for cash at a stipulated price articles of produce with view to selling them for gain, they will be required to make returns of annual net income and include therein for purpose of tax all income derived from such transactions. (T. D. 2690; art. 75.)

—— —— **Produce consumed by family.**

A farmer is not required to include in his income-tax return the value of farm produce consumed by himself and family. (T. D. 2665; Mar. 8, 1918.)

—— —— **Receipts and disbursements.**

Farmers who do not keep books of account and ascertain their gross income by inventory should prepare returns of annual net income on basis of actual receipts and disbursements in order that returns may be susceptible of audit for purposes of verification. (T. D. 2665; Mar. 8, 1918.)

—— —— **Time as of which return made.**

All gains, profits, and income derived from sale or exchange of farm products, whether produced on the farm or purchased and resold by the farmer, shall be included in the return of income for year in which products were actually marketed and sold. (T. D. 2665; Mar. 8, 1918.)

Rents received in crop shares must be returned as of year in which shares are reduced to money or money equivalent, and allowable deductions must be claimed in return of income for tax year in which they apply, although expenses and deductions may be incident to products which remain unsold at end of year. (T. D. 2690; art. 4.)

—— **Fiscal year.**

Return on basis of fiscal year other than calendar year can not be accepted unless such fiscal year shall have been established by proper notice to collector, and if in absence of such notice and designation return is filed subsequent to date when it was required to be filed, if made on calendar year basis, it will be considered delinquent and corporation will be liable to penalty for failure to file return within prescribed time. (T. D. 2690; art. 203.)

Where corporation had previously made its return on calendar-year basis, notice designating fiscal year having been filed, such corporation will, on or before March 1 next, following closing date so designated, make return for fractional part of calendar year ended with date designated as close of fiscal year; all returns thereafter must be made for full fiscal year and must be filed on or before last day of 60-day period next following date designated as close of fiscal year. (T. D. 2690; art. 211.)

In order to change closing date of fiscal year from last day of one month to that of another (other than December) corporation must, at least 30 days prior to 1st day of March next following closing date of previously established fiscal year, file with collector, in writing, notice designating last day of some other month as close of its fiscal year, in which case return for fractional period ending with date last designated must be made on or before last day of 60-day period next following close of such previously established fiscal year. (T. D. 2690; art. 213.)

When corporation has in prescribed manner established fiscal year other than calendar year as basis for making its return, it must make its returns on such basis until such fiscal year be properly changed; failing to make returns on basis designated and within prescribed time will subject corporation to penalties imposed for delinquency. (T. D. 2690; art. 214.)

Where it appears that returns have been made to collector on basis of fiscal year not designated in prescribed manner, corporation making such returns will be advised that such returns can not be accepted, but must be made to cover business of calendar year. (T. D. 2690; art. 215.)

Corporation which had previously established fiscal year other than calendar year as basis for returns, desiring to establish calendar year basis, may do so by filing not less than 30 days prior to March 1 next following closing date of established fiscal year, notice in writing with collector, designating December 31 as close of its year, in which case it must on or before 1st day of March next following file return covering that period between closing date of its previously established fiscal year and December 31. (T. D. 2690; art. 217.)

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Returns—Continued.

—— **Foreign corporations.**

Every foreign corporation having income from sources within United States must make returns of annual net income in accordance with rule set out in section12 (b) of the act of September 8, 1916, as amended by the act of October 3, 1917. (T. D. 2690; art. 66.)

—— **Forms.**

Returns under the income-tax act and pursuant to regulations must be made on forms prescribed for each particular year and which are available at offices of collectors; in absence of prescribed form statement by corporation disclosing gross income and deductions may be accepted as tentative return. (T. D. 2690; art. 210.)

Instructions with reference to furnishing blank forms to corporations; failure on part of any corporation, joint-stock company or association, or insurance company, liable to tax, to receive prescribed blank form, will not excuse it from making return required or relieve it from penalties for failure to make return within prescribed time. (T. D. 2690; art. 216.)

—— **Fraud.**

Where returns of corporations are found to be false or fraudulent, commissioner may upon discovery thereof at any time within three years after such return is due make return upon information obtained in manner provided in the act, and tax so discovered to be due, together with additional tax prescribed, shall be assessed, and amount thereof shall be paid immediately upon notice and demand; for purpose of verifying accuracy of return, books of corporation and all other relative data shall be open to inspection of Commissioner of Internal Revenue or his duly authorized agents. (T. D. 2690; art. 221.)

Any person or officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with the intent to defeat or evade the assessment required by Parts II and III of Title I of the act of September 8, 1916, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution. (T. D. 2690; art. 232.)

In case a false or fraudulent return is willfully made as to undistributed income 100 per cent of the amount of the tax shall be added thereto; corporations, officers thereof, and individuals required to make, render, sign, or verify returns of corporations shall be subject to specific penalties provided by law for making false or fraudulent returns. (T. D. 2736; June 18, 1918.)

—— **Illness of officer.**

Sickness of one or more officers at time return is required to be filed will not be accepted as reasonable cause for failure to file return within prescribed time, unless it is satisfactorily shown that there were no other principal officers available and sufficiently informed as to affairs of corporation to make and verify return. (T. D. 2690; art. 223.)

—— **Incomplete organizations.**

Corporations which have applied for but have not received charters, and corporations which have received charters but never perfected their organizations and which as entities have transacted no business and had no income whatever from any source may, upon presentation of facts to collector, be relieved from making returns, so long as they remain in this unorganized condition; in absence of showing to this effect to the collector such companies will be required to make returns and will be liable to penalties of law for failure to do so. (T. D. 2690; art. 60.)

—— **Inspection.**

See "Disclosure," *ante*.

—— **Insurance companies.**

Copy of report to State insurance department should, wherever possible, be submitted with returns; otherwise Schedule D, parts 1, 3, and 4 of report, should be attached thereto, showing Federal, State, and municipal obligations from which interest omitted from gross income was derived; amounts representing reinsurance treaties will be eliminated from income and disbursements; deposit premiums or perpetual risks received and returned should be treated in same manner, but earnings on deposits will be included in premium income. (T. D. 2690; art. 239.)

Returns must be rendered in conformity with reports made for same period to State insurance departments; returns of annual net income should be made for

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Returns—Continued.

—— **Insurance companies**—Continued.

calendar year, unless books are actually kept on fiscal year basis; T. D. 2433, providing that returns may be made on basis other than as above set forth, is not applicable to insurance companies. (T. D. 2690; art. 239.)

Insurance companies other than mutuals, but including mutual life and mutual marine, claiming as deduction from gross income, for purpose of 4 per cent war income tax, dividends received from foreign organizations, must accompany their returns by list giving names of such organizations and amount received from each. (T. D. 2690; art. 240.)

Applied surrender values and consideration for supplementary contracts, not involving life contingencies included in income, will be deducted as payments under policy contracts; but for convenience in verifying returns, these items should appear in return in both gross income and deductions. (T. D. 2690; art. 241.)

Assessment life and accident insurance companies will make returns in accordance with articles of Regulations No. 33 applicable to insurance companies in general. (T. D. 2690; art. 245.)

Stock fire insurance companies, stock casualty, fidelity, and surety insurance companies, will make returns in accordance with articles of Regulations No. 33 applicable to insurance companies in general. (T. D. 2690; art. 245.)

Except as otherwise specially provided in the law or in Regulations No. 33, general regulations provided for use of corporations, joint-stock companies, or associations, will be observed by insurance companies in making their returns. (T. D. 2690; art. 246.)

—— **Liquidating corporations.**

Corporations going into liquidation during any tax period may, at time of such liquidation, prepare final return covering income received or accrued to it during fractional part of year during which it was engaged in business, and immediately file same with collector of district in which corporation has principal place of business; before distributing assets dissolving corporation should reserve funds sufficient to pay income tax assessable against it; otherwise tax may be collected by suit against it; otherwise tax may be collected by suit against stockholders. (T. D. 2690; art. 205.)

—— **Mailing.**

When last due date for filing return falls on Sunday or a legal holiday the last due date will be held to be day following such Sunday or legal holiday and return should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office, under ordinary handling of the mails, on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

Where return is made and placed in United States mails in due course, properly addressed, and postage paid, in ample time to reach office of collector or deputy collector on or before such due date, no penalty attaches should return not be actually received until subsequent to that date; where question is raised as to whether or not return was posted in ample time, envelope in which return was transmitted should be preserved by collector and forwarded to Commissioner of Internal Revenue with the return. (T. D. 2690; art. 220.)

—— **Mining properties.**

Operator of mining properties, or lessee thereof, required to attach to his return statement setting out certain specified data. (T. D. 2690; art. 172.)

—— **New corporations.**

New corporation making return for properly established fiscal period less than 12 months, but embracing parts of two calendar years, must file return within 60 days from last day of designated fiscal year. (T. D. 2690; art. 203.)

Where new corporation shall have established fiscal year, in prescribed manner, it may make its first and all subsequent returns on basis of year so established, provided that in no case shall a return cover a period greater than 12 calendar months; in absence of properly established fiscal year, returns must be made on calendar-year basis. (T. D. 2690; art. 212.)

—— **Oil and gas properties.**

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

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Returns—Continued.

—— **Partnerships.**

Partnerships, when requested, shall render correct return of earnings, profit, and income of partnership, except income exempt under section 4 of the law, setting forth item of gross income and deductions and credits allowed as for an individual, citizen, or resident alien, and names and addresses of individuals who would be entitled to net earnings, profit, and income, if distributed. (T. D. 2690; art. 30.)

Partnerships, as such, are required to make returns only when requested so to do by the Commissioner or collector. (T. D. 2690; art. 30.)

Common-law partnerships, not being associations within the meaning of the income-tax law, are not required to make returns for purpose of income tax except as they may be requested by the Commissioner of Internal Revenue or by any district collector to make returns for their earnings, profits, and income. (T. D. 2690; art. 63.)

Limited partnerships are held to be associations within the meaning of Title I of the act of September 8, 1916, as amended by act of October 3, 1917, and as such are required to make returns of annual net income and pay any tax thereby shown to be due. (T. D. 2690; art. 62.) The above article was construed in T. D. 2711, and it was there held that it was applicable to partnerships of the Pennsylvania type and of a few other States, but that it did not apply to partnerships of the New York type; therefore, limited partnerships of the Pennsylvania type with limited liability are corporations or joint-stock companies, and limited partnerships of the New York type are partnerships. (T. D. 2711; Mar. 9, 1918.)

—— **Penalties—Delay in filing.**

In case of failure to make and file return within prescribed time or within period of extension granted by collector, Commissioner of Internal Revenue shall add to the tax 50 per cent thereof, except that where a return is voluntarily filed after due date without notice from collector, and it is shown that delinquency was due to reasonable cause and not to wilful neglect, no such addition shall be made to the tax; collector must note on return that it was voluntarily filed, and will procure from corporation statement, under oath, setting out cause for delay, and if such cause is found to be reasonable 50 per cent addition will not be made; exemption from 50 per cent additional tax does not necessarily relieve corporation from liability to specific penalty of not to exceed $10,000. (T. D. 2690; art. 225.)

The time "prescribed by the collector," as used in section 3176, set out under section 16, act September 8, 1916, relates to an extension of time, not exceeding 30 days from normal due date, on or before which return is required to be filed; that is to say, if upon application by a corporation an extension is granted by the collector return must be filed on or before last day of extended period; otherwise the 50 per cent tax will be added, subject to the provisions of said section 3176. (T. D. 2690; art. 228.)

—— —— **Disclosure.**

Disclosure by collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person not legally authorized to receive same, of any information whatever contained in or set forth by any return of annual net income made pursuant to the law, is, by the act, made a misdemeanor, and is punishable by fine not exceeding $1,000, or by imprisonment not exceeding $1,000, or by imprisonment not exceeding one year, or both, in discretion of the court, and if offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government. (T. D. 2690; art. 229.)

—— —— **Fraud.**

Upon failure to pay tax when due and for 10 days after notice and demand, penalty of 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month until paid shall be added to amount of tax, and to amount assessable on basis of net income there shall be added 50 per cent in case of refusal or neglect to make return, and 100 per cent in case of false or fraudulent return, and corporation so offending shall be liable to specific penalty not exceeding $10,000. (T. D. 2690; art. 231.)

In case false or fraudulent return is willfully made 100 per cent of amount of tax shall be added thereto; corporations, officers thereof, and other individuals, required to make, render, sign, or verify returns of corporations, are subject to specific penalties provided by law for making false or fraudulent returns. (T. D. 2736; June 18, 1918.)

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Returns—Continued.

—— **Penalties**—Continued.

—— —— **Refusal or neglect to make.**

Limitation of penalty for refusal or neglect by section 18 of the act of September 8, 1916, as amended, to $1,000, is enlarged as to corporations by section 14 (c) of that act, to $10,000, so that as to corporations, the penalty for delinquency or fraud is not less than $20 nor more than $10,000, and each officer of the corporation required to render, sign, or verify any return, who makes any false or fraudulent return or statement, will, in addition to a payment by the corporation, be subject to prosecution, and on conviction to fine not exceeding $2,000 and imprisonment not exceeding one year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 54.)

In case of any failure to make and file return within time prescribed by law, 50 per cent of amount of tax shall be added thereto, except that when return is voluntarily and without notice from collector filed after such time, and it is shown that failure to file it was due to reasonable cause and not to willful neglect, no such addition shall be made to the tax; corporations, officers thereof, and other individuals, required to make, render, sign, or verify returns of corporations, are subject to specific penalties provided by law for refusal or neglect to make such returns. (T. D. 2736; June 18, 1918.)

—— **Receivers.**

Under section 13, paragraph (C), receivers, trustees in bankruptcy, or assignees in charge of and operating property and business of corporations, must make returns of annual net income and pay tax regardless of what disposition, subject to orders of court, may be made of such income; such receiver, etc., stands in place of corporate officers and must perform all duties and assume all liabilities which would devolve upon such officers were they in control; income which he receives is income of corporation and is subject to tax imposed in so far as it exceeds deductions or allowances authorized by law, and such receiver, etc., must make true return of annual net income covering each year or part of each year, during which he is in custody and control of business or properties, and will be liable to all penalties for failure to meet any of its requirements. (T. D. 2690; art. 269.)

—— **Refunds by cooperative organizations.**

Refund payments—sometimes called a dividend—made by a cooperative organization in accordance with by-laws or published rules regularly adhered to, should appear as added item of cost in detailed schedule of cost items submitted with the organization's return of income. (T. D. 2737; June 19, 1918.)

—— **Refusal or neglect to make.**

Limitation of penalty for refusal or neglect by section 18 of the act of September 8, 1916, as amended, to $1,000, is enlarged as to corporations by section 14 (c) of that act, to $10,000, so that as to corporations, the penalty for delinquency or fraud is not less than $20 nor more than $10,000, and each officer of the corporation required to render, sign, or verify any return, who makes any false or fraudulent return or statement, will, in addition to a payment by the corporation, be subject to prosecution and on conviction to fine not exceeding $2,000 and imprisonment not exceeding one year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 54.)

Where corporations have neglected or refused to make returns, commissioner may, at any time within three years after such return is due, make return upon information obtained in manner provided in the act, and tax so discovered to be due, together with additional tax prescribed, shall be assessed, and amount thereof shall be paid immediately upon notice and demand; for purpose of making return where none is made, books of corporations and all other relative data shall be open to inspection of Commissioner of Internal Revenue or his duly authorized agents. (T. D. 2690; art. 221.)

—— **Requirement, in general.**

Every corporation not specifically enumerated as exempt shall make return of annual net income whether or not it may have for any past year any net income, or whether or not it shall be a subsidiary of, or controlled by, another corporation. (T. D. 2690; art. 203.)

—— **Statement accompanying.**

Any corporation entertaining doubt as to its status under the law, for reason that it does not clearly come within one or another of the classes specifically enumerated as exempt, should, within prescribed time, file return and attach thereto for consideration of collector, statement setting out fully nature and purpose of organization, source of its income, what disposition is made of it, and particularly of any surplus

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Returns—Continued.

—— **Statement accompanying**—Continued.

which it may receive over and above its reasonable needs; if collector is in doubt, he will refer statement and return to Commissioner of Internal Revenue for decision. (T. D. 2690; art. 79.)

No deduction from inventory value of merchandise or material will be allowed except where inventory includes goods or materials which, by reason of obsolescence or damage, are unsalable; when such deduction is claimed facts connected therewith, including statement of cost of goods, value at which they were inventoried, and present condition, must be filed with return. (T. D. 2690; art. 160.)

—— **Subsidiary or branch corporations.**

Fact that branch corporation is organized in any State to meet peculiar conditions there existing and which make it impracticable for parent company as such to do business in such State, although such subsidiary may be to all intents and purposes a mere branch of the parent company, does not relieve it from necessity of making return for each year; if such branch corporation actually transacts business from which income arises, accrues, and is received by it, such corporation must make detailed return, as if it were in no way related to any other corporation, setting forth full amount of income which it receives or which accrues to it, together with authorized deductions therefrom, and upon any net income thus disclosed, tax will be assessed and required to be paid. (T. D. 2690; art. 207.)

Where net income of subsidiary corporation upon which tax has been levied and is payable is turned over to parent company, holder of its stock, amount so turned over will be held to be dividends, or amounts paid to it out of net earnings and must be returned by parent company for purpose of 2 per cent tax imposed by the act of September 8, 1916, but for purpose of war income tax imposed by Title II of act of October 3, 1917, net income of parent company may be reduced by amount of dividends so received. (T. D. 2690; art. 207.)

Subsidiary corporations which actually transact business in their own names, receive income for their own account, incur and pay expenses incident to production of income, keep separate books of account, and, as separate entities, exercise all the powers and functions authorized by their charters, will be required to pay income tax on net income received by them from all sources, regardless of fact that such net income is paid or turned over to a parent or holding company, by whom it must also be returned for purpose of tax imposed by section 10 of the act of September 8, 1916; in latter case both parent and subsidiary companies must make separate returns. (T. D. 2690; art. 208.)

Subsidiary corporations existing in name only or as mere agents or integral parts of parent company will be required to make returns of annual net income, and shall indorse thereon statement that it is a subsidiary or integral part of the parent company (naming it) and that for its own account it has no income from any source whatever, that it makes no disbursements, and that all business done in its name is done for account of and as business of parent corporation, and will be accounted for in return of such parent corporation. (T. D. 2690; art. 208.)

Where subsidiary corporations exist in name only, or are mere agents or integral parts of parent organization and as such transact no business and have no income of and for their own account, and incur no expenses, all business being transacted, all income being received, and all expenses being paid directly by parent company, no separate accounts being kept by or for such subsidiaries, it will be considered that such subsidiary concerns do not have any taxable income within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and so long as they are so operated no tax liability will be asserted against them. (T. D. 2690; art. 208.)

—— **Sunday or holiday.**

When last due date for filing return falls on Sunday or a legal holiday the last due date will be held to be day following such Sunday or legal holiday, and returns should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office under ordinary handling of the mails on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

—— **Tentative returns.**

In absence of prescribed form statement by corporation disclosing gross income and deductions therefrom may be accepted as tentative return, and if filed within prescribed time returns so made will relieve corporation from liability to penalties, provided that upon request and without delay such tentative return be substituted by return made on regular form. (T. D. 2690; art. 210.)

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Returns—Continued.

—— **Time.**

Return, if made on basis of calendar year, must be filed with collector on or before March 1 next following year for which return is made; if on basis of fiscal year ending with date other than December 31, it must be filed within 60 days after close of such fiscal year. (T. D. 2690; art. 203.)

Where fiscal year is not established as prescribed returns must be made on basis of calendar year, in which case such returns must be filed on or before 1st day of March next succeeding such calendar year. (T. D. 2690; art. 204.)

"Last due date," as used in Regulations No. 33, means last day upon which a return is required to be filed in accordance with provisions of the law, or last day of period covered by an extension of time granted by the collector or Commissioner of Internal Revenue. (T. D. 2690; art. 218.)

Return of net income received during taxable year remaining undistributed six months after end of such year must be made within 60 days after expiration of six months after end of such year, except that any corporation, joint-stock company or association, or insurance company, which would otherwise be required to make return on or before date earlier than August 1, 1918, may make such return on or before August 1, 1918. (T. D. 2736; June 18, 1918.)

—— —— **Extension.**

Time for making returns pursuant to requirements of Titles I and II of the act of October 3, 1917, in case of corporations whose income-tax returns have been made or shall be made upon basis of fiscal year ending during calendar year 1917, extended to January 1, 1918. (T. D. 2561; Oct. 16, 1917.) Time extended to February 1, 1918. Extension applies also to returns of annual net income due subsequent to October 16, 1917, but prior to February 1, 1918. (T. D. 2615; Dec. 13, 1917.) Time extended to March 1, 1918. Extension also applies to returns of annual net income due subsequent to October 16, 1917, but prior to March 1, 1918. (T. D. 2633; Jan. 22, 1918.) Time extended to April 1, 1918, and extension made applicable to returns whether made on basis of calendar year or of fiscal year ending during year 1917. (T. D. 2650; Feb. 9, 1918.)

Extension of time granted for such period as may be necessary, not exceeding 90 days after proclamation by President of end of war with Germany, for filing returns of income for 1917 and subsequent years, under sections 6 (c), 8 (b) (c), and 13 (b) (c), of act of September 8, 1916, as amended, and under war income-tax act of October 3, 1917, by or for enemies or allies of enemies, as defined by section 2 of the trading with the enemy act of October 6, 1917, not holding license granted under such act; return of information required; duties of persons controlling money or property for any such enemey or ally of enemy. (T. D. 2673; Mar. 18, 1918.)

Where corporation fails or neglects to file return within prescribed time and such neglect is due to sickness or absence, collector may grant extension of time within which to file return, which extension must not exceed 30 days from normal due date; application for extension must be made prior to expiration of period for which extension is desired. (T. D. 2690; art. 222.)

In meritorious cases the Commissioner of Internal Revenue may grant further reasonable extension of time in which returns may be filed, provided reason for request therefor is presented fully in writing and is considered good and sufficient. (T. D. 2690; art. 224.)

Time for filing returns extended to August 15, 1919, as to partnerships and personal service corporations having fiscal year ended January 31, February 28, March 31, or April 30, 1919. (T. D. 2883; July 9, 1919.)

—— —— **Reasonable cause for delay.**

In case of failure to make and file return within prescribed time or within period of extension granted by collector, Commissioner of Internal Revenue shall add to the tax 50 per cent thereof, except that where a return is voluntarily filed after due date without notice from collector, and it is shown that delinquency was due to reasonable cause and not to willful neglect, no such addition shall be made to the tax; collector must note on return that it was voluntarily filed and will procure from corporation statement under oath, setting out cause for delay, and if such cause is found to be reasonable, 50 per cent addition will not be made; exemption from 50 per cent additional tax does not necessarily relieve corporation from liability to specific penalty of not to exceed $10,000. (T. D. 2690; art. 225.)

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Returns—Continued.

—— Undistributed net income.

Every corporation, joint-stock company or association, and insurance company, required to make return of annual net income and which had taxable net income for preceding taxable year, must make return of amount of such net income received during such taxable year remaining undistributed six months after end of such taxable year; return must be made upon Form 1112, sworn to by president, vice president, or other principal officer, and by treasurer or assistant treasurer, and be made to collector of district in which its return of annual net income is required to be filed. (T. D. 2736; June 18, 1918.)

—— Verification.

Returns must be verified under oath or affirmation of corporation's president or other principal officer, and its treasurer or assistant treasurer; that is to say, by two different persons acting in official capacity indicated. (T. D. 2690; art. 204.)

—— Withholding of tax.

Where record owner of stock of domestic corporations or resident alien corporations is a nonresident alien corporation, etc., not having an office or place of business in the United States, the debtor corporation will withhold the normal income tax and pay same to proper officer of United States, authorized to receive it, in a manner and form provided for withholding and accounting for tax withheld. (T. D. 2690; art. 32.)

Duty of withholding income tax from dividends rests upon domestic or other resident corporations paying the dividends; when it appears that actual owner of stock is nonresident alien corporation it shall be duty of debtor or issuing corporation in United States to withhold income tax from amount of dividend it pays to each nonresident alien corporation, and to make return of such withholding on monthly return Form 1012; annual return, which is summary of monthly returns, shall be filed on or before March 1 of each year for preceding calendar year. (T. D. 2690; art. 201.)

Where for any reason there is included in return which foreign corporation is required to make of all income received from sources within United States any income upon which tax has been withheld at source, such foreign corporation may take credit against amount of tax due for amount of tax so withheld at source, provided statement is attached to return, setting forth source and amount of income upon which tax was so withheld. (T. D. 2690; art. 201.)

Where foreign corporation having no office, agent, or place of business in United States, receives income from sources within this country, other than that upon which tax has been withheld at source, it shall make return of annual net income to collector of internal revenue at Baltimore, Md., accounting for therein all income received during year from all sources in United States, including that upon which tax has been withheld, taking credit for amount of tax so withheld at source under stated conditions. (T. D. 2690; art. 202.)

Status of tax.

Tax due on income has status of a debt due to the United States; persons receiving property charged with such indebtedness must answer for the debt. (T. D. 2690; art. 39.)

Treasury decisions—Date effective.

Treasury decisions promulgating rulings of internal revenue bureau become effective upon date of approval, unless otherwise stated therein; cases previously adjusted in contravention of law as pronounced in such decisions are subject to readjustment in accordance with the decision. (T. D. 2690; art. 38.)

Withholding—Car-trust certificates.

Where car-trust certificates contain provision by which obligor agrees to pay portion of tax imposed upon obligee, or reimburse obligee for any portion of tax, or pay interest without deduction for any tax, trustees in whose names legal title to equipment stands, in making interest payments, will, in absence of claims for exemption, where interest payments are made to individuals, withhold normal income tax on such payments regardless of amount thereof. (T. D. 2690; art.188.)

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Withholding—Continued.

—— **Credits.**

Where for any reason there is included in return which foreign corporation is required to make of all income received from sources within United States any income upon which tax has been withheld at source, such foreign corporation may take credit against amount of tax due for amount of tax so withheld at source, provided statement is attached to return, setting forth source and amount of income upon which tax was so withheld. (T. D. 2690; art. 201.)

—— **Dividends paid foreign corporations.**

To enable debtor corporations, etc., in the United States to distinguish between nonresident alien corporations, etc., which have and those which do not have any office, agent, or place of business in the United States, and also to enable such nonresident alien corporations, etc., as have an office or place of business in the United States to claim exemption from withholding of normal income tax on dividends upon capital stock of domestic or other resident corporations, etc., certificate stating that such corporation, etc., has an office or place of business in the United States will be filed with the debtor corporation. (T. D. 2690; art. 200.)

When record owner of stock of domestic or other resident corporations, joint-stock companies or associations, and insurance companies, is a nonresident alien corporation, joint-stock company or association, or insurance company, not having an office, agent, or place of business in the United States, debtor corporation will withhold and pay tax to proper officer of United States authorized to receive it, in manner and form provided for withholding and accounting for tax withheld. (T. D. 2690; art. 200.)

Duty of withholding income tax from dividends rests upon domestic or other resident corporations paying the dividends; when it appears that actual owner of stock is nonresident alien corporation it shall be duty of debtor or issuing corporation in United States to withhold income tax from amount of dividend it pays to each nonresident alien corporation, and to make return of such withholding on monthly return Form 1012. (T. D. 2690; art. 201.)

When stock in domestic or resident alien corporation whose net income is subject to normal income tax is issued in name of another than nonresident alien corporation, dividends on such stock will not be subject to withholding of normal tax under section 13 (f) of the act of September 8, 1916, as amended, except when debtor corporation or its withholding agent has knowledge that actual owner of stock is nonresident alien corporation subject to withholding. (T. D. 2690; art. 201.)

Banks and collecting agents, debtor corporations, and withholding agents, authorized to accept, until June 1, 1918, certificates of ownership on old forms when properly executed. (T. D. 2702; Apr. 18, 1918.)

Monthly returns reporting payment of interest on bonds, or payment of dividends on stock of domestic corporations, registered in the name of foreign corporations, not having an office or place of business in the United States, required to be prepared on Form 1012, revised (1918). (T. D. 2702; Apr. 18, 1918.)

—— **Exempt corporations.**

Organizations enumerated in section 11 of the act of September 8, 1916, as amended, are not exempt from requirements with respect to withholding of normal tax on bond interest or dividends paid to foreign corporations or bond interest paid to individuals on bonds having tax-free covenant. (T. D. 2690; art. 81.)

—— **Interest.**

Interest received from deposits in banks located within the United States paid to nonresident alien individuals constitutes income received from resources within the United States and is subject to withholding provisions of act of September 8, 1916, as amended by act of October 3, 1917. (T. D. 2623; Dec. 28, 1917. T. D. 2652; Feb. 6, 1918.)

When foreign corporation having no office, agent, or place of business in United States, receives income from sources within this country, other than that upon which tax has been withheld at source, it shall make return of annual net income to collector of internal revenue at Baltimore, Md., accounting for therein all income received during year from all sources in United States, including that upon which tax has been withheld, taking credit for amount of tax so withheld at source under stated conditions. (T. D. 2690; art. 202.)

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Withholding—Continued.

—— **Ownership certificates.**

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals or foreign corporations, having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

Under section 13 (e) of the act of September 8, 1916, as amended, interest on bonds of domestic corporations, joint-stock companies or associations, and insurance companies, payable to nonresident alien corporations, is subject to deduction of tax at source at rate of 6 per cent (2 per cent under act of Sept. 8, 1916, and 4 per cent under act of Oct. 3, 1917); foreign corporation will file ownership certificate, Form 1000, in presenting coupons for payment; if foreign corporation has office, agent, or place of business in United States, certificate Form 1001 shall be filed establishing such fact and relieving corporation from deduction of tax at source. (T. D. 2690; art. 202.)

—— **Record owner liable for tax.**

In all cases where actual owner of stock is nonresident alien corporation, and record owner is individual, firm, or corporation in the United States, citizen, or resident alien, and actual ownership has been disclosed, record owner will be held for income-tax purposes to have receipt, custody, control, and disposal of dividend, and will be required to make return for actual owner and pay tax found to be due. (T. D. 2690; art. 201.)

INCOME TAXES (INDIVIDUALS).

Abatement claims.

See "Claims."

Acts published.

Income tax of September 8, 1916, published. (T. D. 2360; Sept. 11, 1916.) Same act, as amended by act of October 3, 1917, and war income tax act of October 3, 1917, published. (T. D. 2549; Oct. 20, 1917. Note correction following T. D. 2571.)

Assessment of tax—Commissioner's duty.

Assessment of income tax shall be made by Commissioner of Internal Revenue. (T. D. 2690; art. 38.)

In any case where conditions which obtain do not appear to fall within the law and regulations for the assessment and collection of the income tax, proper tax shall be assessed in particular case by Commissioner of Internal Revenue upon his findings concerning the same. (T. D. 2690; art. 49.)

—— **Effective date of Treasury decisions.**

Treasury decisions promulgating rulings of internal-revenue bureau become effective upon date of approval unless otherwise stated therein; cases previously adjusted in contravention of law as pronounced in such decisions are subject to readjustment in accordance with the decision. (T. D. 2690; art. 38.)

—— **Limitations.**

Paragraph (a) of section 9 of the act of September 8, 1916, does not require assessment to be made within three years from time return was due; limitation is upon discovery of delinquency or error within three years. (T. D. 2690; art. 38.)

—— **Notice.**

All persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year. (T. D. 2690; art. 38.)

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Assessment of tax—Continued.

—— Ownership of income.

Ownership of income and liability for tax thereon shall be determined as of the year for which the return is required to be rendered. (T. D. 2690; art. 49.)

Claims for refund or abatement.

See "Claims."

Collection and payment—Advance payment.

Instructions with reference to time for making advance payments in installments or in whole of income and excess-profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

—— Certificates of indebtedness.

Collectors directed to receive United States certificates of indebtedness maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand"; schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from March 15, to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919. and of Series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located and must be forwarded by registered mails; until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

Unmatured coupons attached to certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid"; coupons maturing on or before date tax is due must be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates, nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

—— Excess payment.

An excess payment of tax in one year can not be offset against an assessment of tax for a subsequent year. (T. D. 2690; art. 39.)

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Collection and payment—Continued.

—— **Executors or administrators.**

Administrators or executors should pay tax found by return for calendar year in which administration was closed to be due immediately upon receipt of notice and demand for payment of such tax. (T. D. 2690; art. 26.)

Liability for payment of income tax attaches to the person of an executor or administrator up to and including date of discharge regardless of fact that time in which claim is made and filed against estate has expired, or where, prior to distribution and discharge, executor or administrator had notice of obligations to Federal Government, or where he failed to exercise due diligence in determining whether or not such obligations existed. (T. D. 2690; art. 29.)

Liability for tax due from deceased person, or from his estate, attaches to estate itself, and when by reason of distribution of estate and discharge of executor or administrator it shall appear that collection of tax can not be made from executor or administrator collector will make demand on distributees for their proportionate share of tax due and unpaid. (T. D. 2690; art. 29.)

—— **Fractional part of cent.**

In payment of income tax a fractional part of a cent shall be disregarded unless it amounts to a half cent or more in which case the fraction shall be increased to one cent. (T. D. 2690; art. 41.)

—— **Nonresident aliens.**

All property in United States of nonresident alien is subject to distraint for collection of tax and penalty. (T. D. 2690; art. 13.)

Tax on income derived by nonresident aliens from sources within United States shall be paid by owner of said income or proper representatives of the alien having the receipt, custody, control, or disposal of same; where all income shall have been paid over by the representative to his principal on or before October 3, 1917, or where stockholder of record shall not, between October 3 and December 31, 1917, be in receipt of or have in his custody or control, income, the property of his said principal, such representative need not pay such tax, leaving same a charge against the nonresident alien and to be collected from him by any means at disposal of the Commissioner; but where such representative shall have in his possession, custody, or control, subsequent to October 3, 1917, income of his principal, said representative shall pay total tax due upon the income so in his custody and control for the entire year 1917 and subsequent years. (T. D. 2690; art. 32.)

Upon showing properly made either by certification or return, as circumstances may require, as to ownership of stock of domestic or resident alien corporation, Commissioner of Internal Revenue will make such assessments and issue such instructions to debtors and withholding agents as will insure proper collection of tax in accordance with respective tax liabilities. (T. D. 2690; art. 32.)

Where actual owner of stock of domestic corporation or resident alien corporation is nonresident alien individual or corporation, and record owner is an individual firm or corporation in the United States (citizen or resident alien), and showing of actual ownership is made, record owner will be held to have receipt, custody, control, and disposal of dividend income and will be required to pay tax found by return to be due. (T. D. 2690; art. 32.)

—— **Notice.**

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

—— **Payment by check—Bad checks.**

Taxpayers whose checks have been returned uncollected by depositary bank should be immediately notified to make checks good; if taxpayer fails to do so, collector should proceed to collect taxes by usual methods, as though no check had been given. (T. D. 2666; Mar. 8, 1918.)

In cases where checks have been returned uncollected by depositary bank, if recapitulation of assessment list for the month has not yet been sent to the Com-

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Collection and payment—Continued.

—— **Payment by check—Bad checks**—Continued.

missioner, original entry of payment should be canceled, and at the same time there should be noted in the "Remarks" column "Check returned unpaid; transferred to p. —, l. —," with the date, and the item should be reentered in the unpaid section of the list, with the notation "Transferred from p. —, l. —." There should be submitted in support of the new entry a copy of the collector's letter to the taxpayer with regard to the nonpayment of the check; if monthly recapitulation has gone forward, note should be made in the "Remarks" column, opposite the original entry, "Check returned unpaid," with the date. (T. D. 2666; Mar. 8, 1918.)

Where check for which certificate of deposit to credit of Treasurer of the United States has been issued is returned to depositary bank unpaid, collector will be promptly notified and check held for few days, during which time collector should make effort to recover amount from taxpayer; if amount is recovered, collector should immediately turn it over to depositary in exchange for bad check, which should be returned to the drawer, but if amount is not recovered within reasonable time, depositary will return check with letter of transmittal and ask receipt from collector, which receipt should be given in duplicate, and depositary will charge amount to Treasurer's account in next daily transcript. (T. D. 2666; Mar. 8, 1918.)

Where check deposited in collection account is returned unpaid, and no certificate of deposit on Form 15 covering the amount thereof has been issued, amount of check will be charged by depositary to the collection account, after being held in a suspense account for a few days while an effort is made to recover amount from taxpayer. (T. D. 2666; Mar. 8, 1918.)

—— —— **Collection at par.**

All checks in payment of income taxes must be collectible at par (without any deduction); taxpayers who are not sure that their checks will be paid at par should be advised to write beneath the amount "without deduction for exchange," or "with exchange"; collector not required to examine all checks to see whether they are collectible at par; if bank on which check is drawn refuses to pay it at par, it will be returned through depositary bank, and should be treated in same manner as a bad check. (T. D. 2666; Mar. 8, 1918.)

—— —— **Monthly and quarterly accounts.**

Instructions with reference to preparation of monthly and quarterly accounts in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; Mar. 8, 1918.)

—— —— **Out-of-town check.**

All out-of-town checks for which depositary bank is unwilling to issue immediate certificate of deposit to credit of Treasurer of United States, should be deposited separately in collection account, as provided in T. D. 2627; collection account will be charged and Treasurer's general account credited by issuance of certificate of deposit on Form 15. (T. D. 2666; Mar. 8, 1918.)

—— —— **Posting records.**

Instructions with reference to posting records 1 and 9 in cases where checks have been returned uncollected by depositary bank. (T. D. 2666; Mar. 8, 1918.)

—— —— **Uncertified checks.**

If uncertified check, accepted by collectors, is not paid, person by whom it has been tendered remains liable for tax; such uncertified checks as depositary bank is willing to accept should be included in certificate of deposit issued to collector; all other certificates will be carried by collector as "cash on hand"; date on which collector receives check considered date on which payment is made unless check is returned dishonored; such uncertified checks as bank is not willing to accept for immediate credit may be deposited for collection, and when collection is made proceeds should be immediately deposited with other collections for the day, collector charging his account "cash on hand," and crediting taxpayer from whom check was received. (T. D. 2627; Dec. 28, 1917.)

—— **Penalties for nonpayment.**

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later tlan June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collec-

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Collection and payment—Continued.

—— **Penalties for nonpayment**—Continued.

tors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; art. 39, 41.)

There shall be added to tax unpaid before close of business June 15 and 10 days after notice and demand 5 per cent on amount of tax unpaid and interest at rate of 1 per cent per month from time same became due, except from estates of insane, deceased, or insolvent persons, and delinquents shall also be liable for specific penalty of not less than $20 nor more than $1,000. (T. D. 2690; art. 51.)

—— **Status of tax**

Tax due on income has status of a debt due to the United States; persons receiving property charged with such indebtedness must answer for the debt. (T. D. 2690; art. 39.)

A tax is not a debt and the Government is not a creditor in a strict sense. The obligation is of a higher nature than a debt. (T. D. 3043; July 2, 1920. Ct. Dec.)

—— **Time of payment.**

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15. (T. D. 2690; art. 39.)

Because of impossibility of receiving notice and demand on Form 17 and making payment of taxes so that taxes can be received by collector within 10-day period following June 15, or within 10-day period following service of notice, by reason of absence in foreign countries or on account of traveling abroad, or of absence in the military or other service of the country, and consequent delay in receiving mail, collector is requested to enter on Form 17 as date on which tax becomes due and payable, as near as possible, date 10 days subsequent to time that notice should be received in ordinary course of mails, and where it appears that full amount of tax was placed in mail within 10-day period, or in case notice is not delivered in due time, and satisfactory evidence of that fact is furnished, penalty and interest will not be collected. (T. D. 2679; Mar. 23, 1918.)

Constitutional provision.

The sixteenth amendment to the Constitution of the United States does not extend the taxing power to new or excepted subjects, but merely removes all occasion which otherwise might exist for an apportionment among the States of taxes laid on income, whether it be derived from one source or another. (T. D. 2726; June 4, 1918. Ct. Dec.)

Under the sixteenth amendment to the Constitution, Congress has power to tax as income, without apportionment, everything that became income in the ordinary sense of the word after the adoption of the amendment. (T. D. 2731; June 11, 1918. Ct. Dec.)

Neither under the sixteenth amendment to the Constitution nor otherwise has Congress power to tax without apportionment a true stock dividend made lawfully and in good faith, or the accumulated profits behind it, as income of the stockholder; act September 8, 1916, held unconstitutional in so far as it imposes an income tax upon true stock dividends. (T. D. 3010; Apr. 26, 1920. Ct. Dec.)

Deductions.

See "Net income," *post*.

Estate tax—Deduction of income taxes.

Where State statute or act of Congress, imposing tax on income, creates either a lien or a personal obligation, as of a date in the decendent's lifetime, the tax is deductible, and where lien or obligation is created as of a date subsequent to the decedent's death the tax is not deductible; the income and excess profits taxes imposed by acts of September 8, 1916, and October 3, 1917, constitute personal obligation of the taxpayer, and are deductible in accordance with these rules; the unpaid taxes for years prior to that in which decedent died are deductible; for the year in which decedent died, the tax upon income up to the date of death is deductible. (T. D. 2771; Nov. 8, 1918.)

Exemptions—Amount.

Under act of September 8, 1916, as amended, and act of October 3, 1917, returns required in case of net incomes equal to or in excess of $1,000 or $2,000, according to marital status of person making return; in return so required basic personal

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Exemption—Amount—Continued.

exemption will be $1,000 under act of October 3, 1917, and $3,000 under act of September 8, 1916, as amended; exemption allowed husband and wife living together may be taken by one or divided between them in such ratio as they may determine. (T. D. 2690; art. 26.)

Applying only to citizens and residents of United States there is an individual exemption of $3,000, except that if husband and wife live together a joint exemption of $4,000 under the act of September 8, 1916, and $2,000 under the act of October 3, 1917, is substituted for the several exemption of $3,000 each, under the earlier act, and $1,000 each, under the later act, and that if the taxpayer be a head of a family consisting of a person or persons other than a wife or husband alone, his exemption is $4,000 under the earlier act and $2,000 under the later act, plus $200 for each dependent child. (T. D. 2692; Apr. 8,1918.)

—— **Bequests or legacies.**

Value of property acquired by bequest or devise shall not be included as income, but income from such property shall be reported. (T. D. 2690; art. 5.)

—— **Children.**

Exemption of $200 for each dependent child provided by section 7 of act of September 8, 1916, as amended, is given in respect of income tax, and is, therefore, applicable under both the act of September 8, 1916, as amended, and the act of October 3, 1917, under same conditions of fact. (T. D. 2690; art. 14.)

—— **Death within calendar year.**

Where person having taxable income dies within calendar year, his personal representatives in making return for him may claim full exemption granted by statutes for calendar year. (T. D. 2690; art. 14.)

Where husband or wife having taxable income dies within calendar year and full exemption for year is used by personal representative in making return, if survivor is also required to make return at close of year for income received within that year, the full personal exemption, according to marital status of survivor at close of year, may be claimed in return of income. (T. D. 2690; art. 14.)

—— **Excess.**

Personal exemptions are granted in respect of normal income tax only, and where total of allowable exemptions and credits exceeds amount of net income, excess of such exemptions may not be availed of as against additional tax. (T. D. 2690; art. 14.)

—— **Federal reserve bank dividends.**

Exemption provided for in Federal reserve statute, section 3, of the act of October 22, 1914, attaches to and follows income derived from dividends on stock of Federal reserve banks into hands of stockholders, that is to say, dividends received on stock of such banks, are exempt from taxes imposed by acts of September 8, 1916, as amended, and of October 3, 1917. (T. D. 2690; art. 86.)

—— **Fiduciaries.**

Fiduciaries acting for minors or incompetent persons are permitted to take personal exemption as to income derived from property of which they have charge in favor of each ward or beneficiary. (T. D. 2690; art. 14.)

—— **Gifts.**

Value of property acquired by gift shall not be included as income, but income from such property shall be reported. (T. D. 2690; art. 5.)

—— **Head of family.**

Head of a family is person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage or by adoption, and whose right to exercise family control and provide for these dependent individuals is based upon some moral or legal obligation. (T. D. 2690; art. 14.)

Applying only to citizens and residents of United States there is an individual exemption of $3,000, except as to taxpayer who is head of family consisting of person or persons other than a wife or husband alone, his exemption is $4,000 under act of September 8, 1916, and $2,000 under act of October 3, 1917, plus $200 for each dependent child. (T. D. 2692; Apr. 8, 1918.)

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Exemptions—Continued.

—— **Head of family—Continued.**

A head of a family is a person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage, or by adoption, in one household; in absence of continuous actual residence together, whether or not a person with dependents is head of a family within the meaning of the statute must depend on the character of the separation; if a child or other dependent is away only temporarily at school or on a visit, the common home being still maintained, the additional exemption applies; if, however, the dependent continuously makes his home elsewhere his benefactor is not the head of a family, irrespective of the question of support. (T. D. 2692; Apr. 8, 1918. See T. D. 2427; Dec. 26, 1916.)

—— **Husband and wife.**

Resident aliens claiming exemption because of families or wives residing abroad, are not heads of families or married men or women with wives or husbands living with them within the meaning of the income-tax law, and they are in no case entitled to more than their individual exemptions of $3,000, under the act of September 8, 1916, and $ 1,000 under the act of October 3, 1917. (T. D. 2692; Apr. 8, 1918.)

In the case of a married man or a married woman the joint exemption replaces the individual exemptions only if his wife lives with him or her husband lives with her; in absence of continuous actual residence together, whether or not a man or woman has a wife or husband living with him or her must depend on the character of the separation; if merely occasionally and temporarily a wife is away on a visit or a husband is away on business, the joint home being maintained, the additional exemption applies, and the unavoidable absence of a wife or husband at a sanatorium or asylum on account of illness does not preclude claiming the exemption; if, however, the husband voluntarily and continuously makes his home at one place and the wife hers at another, they are not living together for the purpose of the statute, irrespective of their personal relations. (T. D. 2692; Apr. 8, 1918.)

—— **Inherited property.**

Value of property acquired by bequest or devise shall not be included as income, but income from such property shall be reported. (T. D. 2690; art. 5.)

—— **Insurance.**

There shall not be included as income proceeds of life insurance policies paid to beneficiaries upon death of insured, or amount received by insured as return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during term or at maturity of term mentioned in contract on surrender of contract. (T. D. 2690; art. 5.)

—— **Interest.**

Interest on obligations of a State or any political subdivision thereof, or on obligations of the United States (but, in case of obligations issued after September 1, 1917, only if and to extent provided in act authorizing issue thereof), or its possessions, or on securities issued under provisions of Federal farm loan act of July 17, 1916, shall not be included as income. (T. D. 2690; art. 5.)

Income from United States bonds issued under the act of September 24, 1917, is exempt from the war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

—— **Liberty bonds.**

Interest on obligations of United States (but, in case of obligations issued after September 1, 1917, only if and to extent provided in act authorizing issue thereof) or its possessions shall not be included as income. (T. D. 2690; art. 5.)

Income from United States bonds issued under the act of September 24, 1917, is exempt from the war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

When income as such is taxable to beneficiaries, as in case, under present income tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries, each beneficiary is regarded as owner of proportionate part of bonds held in trust, and subscription by trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and

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Exemptions—Continued.

—— **Liberty bonds**—Continued.

entitles him to collateral exemption of interest on bonds of previous issues, whether owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust, and the trust is entitled to exemption on account of such ownership. In such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the original subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

Corporation, and not stockholders, is regarded as owner of Liberty loan bonds held by a corporation and entitled to exemption on account of such ownership. When bonds of Fourth Liberty Loan are subscribed for by corporation, it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income, such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess profits tax law, partnership is treated as owner of Liberty loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to individual partners, as under present income tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such ownership, as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

Circular, issued under date of April 23, 1919, with reference to tax exemptions of Liberty bonds and Victory notes, published for information of internal revenue officers and others concerned. (T. D. 2836; May 7, 1919.)

For purposes of additional tax exemption for Liberty bonds granted by section 2 (b) of the Victory Liberty loan act, approved March 3, 1919, Victory notes of either series issued upon conversion of Victory notes of the other series which were originally subscribed for by any taxpayer will be deemed to have been originally subscribed for by such taxpayer. (T. D. 2857; June 7, 1919.)

Interest accrued on 4¾ per cent Victory notes at date of conversion by taxpayer into 3¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest on 4¾ per cent Victory notes, and will be entitled only to exemptions from taxation to which interest on 4¾ per cent Victory notes is entitled; amounts received by taxpayer from United States by way of adjustment of accrued interest upon conversion of 4¾ per cent Victory notes will be deemed to be interest on 4¾ per cent Victory notes. (T. D. 2865; June 14, 1919.)

All interest accrued on 3¾ per cent Victory notes at date of any conversion by taxpayer into 4¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest upon 3¾ per cent Victory notes, and will be entitled to exemptions from taxation to which interest upon 3¾ per cent Victory notes is entitled. (T. D. 2865; June 14, 1919.)

—— **Partnership.**

Character of partnership profits divisible between persons has no reference (except as otherwise specially provided for in section 8 (e) of the act of September 8, 1916, as amended) to any character which, as income accruing to partnership, it may have borne prior to receipt by partnership, and hence, with exception noted, income received by partnership can not be traced to source beyond partnership for purpose of claiming individual exemption. (T. D. 2690; art. 30.)

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Exemptions—Continued.

—— **Political subdivisions.**

Interest upon obligations of State or any political subdivision thereof is exempt; obligations issued for public purpose by or on behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of those functions of State which by long usage and inherent necessities of Government have always been regarded as public; the term includes special assessment districts so created, such as roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

—— **President of the United States.**

Compensation of President of United States for term for which he is elected, beginning March 4, 1917, shall not be included as income for purposes of income tax under act of October 3, 1917, such compensation being subject to tax under the act of September 8, 1916. (T. D. 2690; art. 5; see T. D. 3037.)

—— **Scope.**

Exemptions in respect of normal income tax are limited to individuals who are citizens or resident aliens, and are provided by paragraph (a) of section 7, of the act of September 8, 1916, as amended by the act of October 3, 1917, and by paragraph (b) of section 3, of the act of October 3, 1917; amount of exemption stated. (T. D. 2690; art. 14.)

—— **State obligations.**

Interest upon obligations of State or any political subdivision thereof is exempt; obligations issued for public purpose by or in behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

—— **State officers or employees.**

Compensation of all officers and employees of a State or any political subdivision thereof, except when such compensation is paid by United States Government, shall not be included as income. (T. D. 2690; art. 5.)

—— **Time of accrual of income.**

It is evident purpose of act of October 3, 1913, to refrain from taxing income that accrued prior to March 1, 1913, and to exclude from consideration in making computation of taxable income for given year any income that accrued in the preceding taxable year. (T. D. 2730; June 11, 1918. Ct. Dec.)

—— **United States judges.**

Compensation of all judges of the Supreme and inferior courts of the United States in office September 8, 1916, and October 3, 1917, shall not be included as income, compensation of judges of those courts appointed subsequent to September 8, 1916, being subject to tax under act of that date but not under act of October 3, 1917; compensation of judges of such courts appointed subsequent to October 3, 1917, are subject to tax under both acts. (T. D. 2690; art. 5; see T. D. 3037.)

Gross income—Accretion to estate.

Stock dividends paid from earnings or profits accumulated after March 1, 1913, received by fiduciary and retained as an accretion to the estate, under the terms of the will or trust, are held to be income to the estate and taxable as such to the estate. (T. D. 2690; art. 29.)

—— **Alimony.**

Alimony or allowance based on separation agreement is not income to recipient thereof, nor is it an allowable deduction for the person paying same. (T. D. 2690; art. 4.)

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Gross income—Continued.

—— Allowance to minor children.

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not income to the children. (T. D. 2690; art. 8.)

—— Army and Navy officers.

Retired pay of army and naval officers is subject to income tax. (T. D. 2690; art. 4.)

—— Bad debts collected.

Bad debts which have been claimed and allowed as deduction in prior returns are considered income if subsequently collected. (T. D. 2690; art. 4.)

—— Beneficiaries of trust estates.

All amounts paid by fiduciaries to beneficiaries of trust estates from income of such estates, whether from receipts or otherwise, are held to be distributions of income and will be treated for income-tax purposes in accordance with provisions of law and regulations applicable to income of such beneficiaries. (T. D. 2690; art. 29.)

Where trustees hold shares of stock of corporation and real estate subject to lease, collecting dividends and rents, but otherwise doing no business, and distribute the income less taxes and similar expenses to holders of their receipt certificates, who have no control except right of filling vacancies among trustees and of consenting to modification of terms of trust, such trust is not subject to income tax as joint-stock association, under act of October 3, 1913, and trustees and cestui que trust are to be treated as fiduciaries and beneficiaries for purposes of taxation. (T. D. 2816; Apr. 2, 1919. Ct. Dec.)

—— Bonds.

Interest accrued to time of purchase of bonds (advanced by purchaser) is not to be accounted for as income by purchaser; only amount of interest assignable to portion of interest paid subsequent to purchase has status of income, and amount of accrued interest so advanced by purchaser is taxable income to be accounted for in return of vendor; coupons from bonds for interest thereon, exchanged for other bonds, are equivalent of payment of interest coupons and purchase of new bonds with cash; amount of coupons is to be accounted for as income for calendar year in which exchange is made. (T. D. 2690; art. 4.)

—— Bondholders.

While payments made by lessee direct to bondholders are rentals to both it and lessor, rentals paid in one case and rentals received in other, to the bondholders they are interest and dividend payments received as from the lessor, and as such will be accounted for in their returns of annual net income. (T. D. 2690; art. 103.)

—— Bonuses.

Where common stock is received as bonus in consideration of purchase of preferred stock, entire proceeds derived from sale or transfer of such stock is income subject to normal and additional tax. (T. D. 2690; art. 4.)

—— Building and loan association shareholders.

Amount credited to shareholders when title to credit passes to shareholder at time of credit is subject to normal and additional tax as for year of credit; where amount of such accumulations does not become available until maturity of share, amount of share in excess of aggregate amount paid in by shareholder is income to be accounted for as for year of maturity of share for both normal and additional tax. (T. D. 2690; art. 4.)

—— Commissions.

Commissions paid salesmen are income to the salesmen as well as expense to the payer. (T. D. 2690; art. 4.)

Commissions on renewal premium for insurance received by agents on account of business written is income to be accounted for as such and for calendar year of its receipt. (T. D. 2690; art. 4.)

Compensation for service paid for on percentage of net profits is income to employee and must be accounted for as such; where service is rendered for stipulated

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Gross income—Continued.

—— **Compensation payments.**

price, wage, or salary and paid with something other than money, stipulated value of service in terms of money is value at which thing taken in payment is to be considered for purpose of tax; in absence of stipulation as to value of service, payment being made with something other than money, market or reasonable value of thing taken in payment is amount to be included as income. (T. D. 2690; art. 4.)

In case of compensation for service, where no determination of compensation is had until completion of service, amount received is income to be accounted for as for calendar year of receipt; where service and payment period is divided by end of taxable year, compensation for period so divided will be accounted for as income for year in which payment is actually received; where compensation is by fee or is of such nature that no part of fee or compensation becomes due until completion of service, entire amount received should be accounted for as for year of receipt; person having salary by the year and in addition commissions on sales, salary to be paid at time commissions are determined, and determination thereof is in succeeding calendar year, entire amount should be accounted for as income of calendar year of receipt. (T. D. 2690; art. 4.)

Where employee is paid in capital stock of corporation, if he be a taxable person he must return such stock at its actual value as income. (T. D. 2690; art. 139.)

—— **Damages recovered.**

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to income and war income taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses or lost or destroyed through war hazards may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of commissioner, be amount of compensation received, less amount if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

—— **Definition.**

Gross income includes gains or profits and income derived from any source whatever except such as is specifically exempted from tax under provisions of section 4 of the act of September 8, 1916, as amended by act of October 3, 1917. (T. D. 2690; art. 4.)

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Gross income—Continued.

—— **Determining value as of March 1, 1913.**

No method of determining this value can be stated which will adequately meet all circumstances; such value is question of fact to be established by the evidence which will reasonably and adequately make it appear. (T. D. 2690; art. 4.)

—— **Dividends.**

According to the decision of the Supreme Court of the United States in the case of Towne *v.* Eisner, decided January 7, 1918, stock dividends declared in 1914 for profits accrued before January 1, 1913, do not constitute taxable income to recipients under section 2 of the act of October 3, 1913. (T. D. 2634; Jan. 21, 1918. Ct. Dec.)

All dividends received in 1917, even though paid by corporations from earnings of previous years, constitute income to the recipients for 1917; method of ascertaining precise rate applicable to such portions of dividends received in 1917 stated; taxpayers reporting dividends received at other than 1917 rates required to render statement showing corporations from which such dividends were received, with amount of dividend received from each. (T. D. 2659; Feb. 28, 1918. See T. D. 2736; June 18, 1918.)

Where there is doubt whether earnings of corporation in 1917 up to date of dividend payment in that year were sufficient to cover dividend payment, corporation may distribute earnings for accounting period within which dividend or dividends in question were paid, ratably over the period, for purpose of determining amount of earnings during period up to date of payment; this decision should be read in connection with instructions set forth in T. D. 2659. (T. D. 2678; Mar. 23, 1918. (See T. D. 2736; June 18, 1918.)

Dividend paid from depletion reserve considered a liquidating dividend and does not constitute taxable income except to extent that amount so received is in excess of capital actually invested by stockholder in shares of stock and with respect to which distribution was made; no dividend will be deemed to have been paid from such reserve except to extent that dividend exceeds surplus and undivided profits of corporation at time of payment, and unless books, etc., of corporation clearly indicate corresponding reduction of capital assets resulting from payment. (T. D. 2690; art. 4.)

Stock dividends declared from earnings or profits accrued prior to March 1, 1913, or from surplus created by revaluation of capital assets, or from placing value upon trade-marks, good will, etc., do not represent distribution of earnings or profits subject to tax in hands of shareholder; when stock received in payment of such dividend or stock in respect of which any such dividend was paid, is sold, cost of each share of stock, whether new or old, for purpose of ascertaining gain or loss from sale, is quotient of cost of old stock, if acquired on or after March 1, 1913, or its fair market price or value as of that date if acquired prior thereto, divided by the number of old and new shares added together, and profit so ascertained is income subject to both normal and additional tax, to be accounted for in shareholder's return for year in which sale is made. (T. D. 2734; June 17, 1918.)

Dividends declared by corporation and paid with securities in which surplus of corporation has been invested, regardless of character of securities, must be accounted for as dividend for income-tax purposes by recipients to extent that it represents distribution of surplus accrued to corporation since March 1, 1913. (T. D. 2690; art. 4.)

Payments under legal requirements by bank for its stockholders of taxes on bank stock are regarded as in the nature of additional dividends and should be included by stockholder in his dividends received. (T. D. 2690; art. 8.)

While payments made by lessee direct to stockholders are rentals to both it and lessor, rentals paid in one case and rentals received in other, to the stockholder they are interest and dividend payments received as from the lessor, and as such will be accounted for in their returns of annual net income. (T. D. 2690; art. 103.)

Term "dividends" held to mean any distribution made or ordered to be made by a corporation, joint-stock company or association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company or association, or insurance company, which stock dividend shall be considered income to amount of earnings or profits so distributed. (T. D. 2690; art. 106.)

Any distribution made to shareholders in the year 1917 or subsequent years (except any distribution of dividends made prior to August 6, 1917, out of earnings or profits accrued prior to March 1, 1913) shall be deemed to be made from most recently accumulated undivided or surplus profits, and shall constitute income of distributee for year in which received, and shall be taxed at rates prescribed by law for years in

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Gross income—Continued.

—— **Dividends**—Continued.

which such surplus or profits were earned by distributing corporations. (T. D. 2690; art. 107. See also, T. D. 2659, Feb. 28, 1918, and T. D. 2734, June 7, 1918.)

Where capital assets of corporation increased in value prior to March 1, 1913, and a single and final dividend was made in liquidation of entire assets in 1914, without further depreciation or addition to the assets having occurred, no part of dividend received by stockholder is taxable under act of October 3, 1913. (T. D. 2729; June 11, 1918. Ct. Dec.)

The act of September 8, 1916, and the act of October 3, 1917, in excluding dividends declared out of earnings or profits that accrued prior to March 1, 1913, are not intended to be declaratory of the meaning of the term "dividends" in the act of October 3, 1913. (T. D. 2731; June 11, 1918. Ct. Dec.)

An individual stockholder is subject to the additional tax under the act of October 3, 1913, on all dividends declared and paid by a corporation in the ordinary course of business after taking effect of the act, whether from current earnings or from the accumulated surplus made up of past earnings or increase in value of corporate assets, notwithstanding surplus accrued to corporation in whole or in part prior to March 1, 1913. (T. D. 2731; June 11, 1918. Ct. Dec.)

A dividend declared and paid by a going corporation, partly in cash and partly in assets of the corporation, is subject to the additional tax imposed by the act of October 3, 1913, when received by an individual stocklolder, although declared from a surplus which was in part accumulated before March 1, 1913. (T. D. 2732; June 11, 1918. Ct. Dec.)

A dividend declared and paid by one corporation in the stock of another is not a "stock dividend" within the accepted meaning of that term. (T. D. 2732; June 11, 1918. Ct. Dec.)

An ordinary stockholder, before declaration of a dividend, has only the right to have the assets of the corporation devoted to its proper business, and to receive such dividends as the directors may in their discretion declare—a very different interest from his interest after a dividend is declared. (T. D. 2732; June 11, 1918. Ct. Dec.)

Where a corporation, being authorized so to do by the laws of the State in which it is incorporated, transfers a portion of its surplus to capital account, issues new stock representing the amount of the surplus so transferred, and distributes the stock so issued to its stockholders, such stock is not income to the stockholders and the stockholders incur no liability for income tax by reason of its receipt. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, being thereunto lawfully authorized, increases its capital stock, and simultaneously declares a cash dividend equal in amount to the increase in its capital stock, and gives to its stockholders a real option either to keep the money for their own or to reinvest it in the new shares, such dividend is a cash dividend and is income to the stockholders whether they reinvest it in the new shares or not. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, which is not permitted under the laws of the State in which it is incorporated to issue a stock dividend, increases its capital stock and at the same time declares a cash dividend under an agreement with the stockholders to reinvest the money so received in the new issue of capital stock, such dividend is subject to tax as income to the stockholder. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, having a surplus accumulated in part prior to March 1, 1913, and being thereunto lawfully authorized, transfers to its capital account a portion of its surplus, issues new stock representing the amount so transferred to the capital account and then declares a dividend payable in part in cash and in part in shares of the new issue of stock, that portion of the dividend paid in cash will, to the amount of the surplus accumulated since March 1, 1913, be deemed to have been paid out of such surplus, and be subject to tax, but the portion of the dividend paid in stock will not be subject to tax as income. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

A dividend, paid in stock of another corporation held as a part of the assets of the corporation paying the dividend, is income to the stockholder at the time the same is made available for distribution to the full amount of the then market value of such stock (Peabody *v.* Eisner, T. D. 2732); and if such stock be subsequently sold by the stockholder, the difference between its market value at date of receipt and the price for which it is sold is additional income or loss to him, as the case may be. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

The profit derived by a stockholder upon the sale of stock received as a dividend is income to the stockholder and taxable as such even though the stock itself was not

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Gross income—Continued.

—— **Dividends**—Continued.

income at the time of its receipt by the stockholder. For the purpose of determining the amount of gain or loss derived from the sale of stock received as a dividend or of the stock with respect to which such dividend was paid, the cost of each share of stock (provided both the dividend stock and the stock with respect to which it is issued have the same rights and preferences) is the quotient of the cost of the old stock (or its fair market value as of March 1, 1913, if acquired prior to that date) divided by the total number of shares of the old and new stock. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

—— **Farms.**

Rents received in crop shares must be returned as of year in which shares are reduced to money or money equivalent, and allowable deductions must be claimed in return of income for tax year in which they apply, although expenses and deductions may be incident to products which remain unsold at end of year. (T. D. 2690; art. 4.)

In case of sale total amount received for stock raised and for stock purchased for resale is to be accounted for as income. (T. D. 2690; art. 4.)

—— **Gifts.**

Fair market price or value of stock acquired by gift subsequent to March 1, 1913, is basis for computing gain derived or loss sustained by sale thereof; if acquired by gift prior to March 1, 1913, fair market price or value as of that date is the basis for computation. (T. D. 2690; art. 4.)

—— **Improvements under rental contracts.**

When improvements become part of real estate, difference between cost thereof and allowable depreciation during lease term is gain or profit to lessor at end of lease term, and must be accounted for as income at that time. (T. D. 2690; art. 4.)

—— **Inherited property.**

Appraised value at time of death of testator is basis for determining gain or profit upon sale subsequent to death after March 1, 1913. (T. D. 2690; art. 4.)

—— **Installment sales of property.**

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if, for any reason, vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

—— **Insurance.**

Where insured receives, under any form of life insurance, an amount in excess of premiums paid, such excess has taxable status, and is to be accounted for as for calendar year of its receipt; dividends on paid-up policies are in nature of corporate dividends and are to be accounted for as income for purposes of additional tax only. (T. D. 2690; art. 4.)

Proceeds of life insurance policies payable to estate of decedent, when received by executor or administrator are, in amount by which they exceed the premium or premiums paid by decedent, income of the estate to be accounted for under section 2 (b) of the act of September 8, 1916; return should be made on Form 1040 or 1040A. (T. D. 2690; art. 29.)

Proceeds of accident insurance policy received by individual on account of personal injuries sustained through accident are not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

—— **Interest.**

Interest accrued to time of purchase of bonds (advanced by purchaser) is not to be accounted for as income by purchaser; only amount of interest assignable to portion of interest paid subsequent to purchase has status of income, and amount of accrued interest so advanced by purchaser is taxable income to be accounted for in return of vendor; coupons from bonds for interest thereon, exchanged for other bonds are equivalent of payment of interest coupons and purchase of new bonds with cash. (T. D. 2690; art. 4.)

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Gross income—Continued.

—— **Interest**—Continued.

Interest on State, municipal, and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; art. 4.)

Interest received on bonds held, whether guaranteed to be tax free or not, must be included in income and must be so accounted for in return of annual net income; matter of complying with covenant of bond is matter to be adjusted between debtor corporation and the bondholder. (T. D. 2690; art. 122.)

—— **Nonresident aliens.**

When stock is sold from lots purchased at different times and at different prices and identity of lots can not be determined as to dates of purchase, stock sold shall be charged against earliest purchases thereof; difference between cost and amount realized from sale will be profit to be accounted for if purchase was on or after March 1, 1913; profit derived from sale of stock purchased prior to March 1, 1913, is difference between fair market value of price as of that date and the selling price; when nonresident alien disposes of stock in American corporation by sale, sale and delivery being made within United States, profit will be held to have been derived from sources within United States, and is to be included for purposes of income tax. (T. D. 2690; art. 4.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships, to nonresident alien employees for services rendered entirely in a foreign country and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art. 32.)

The income received by a nonresident alien from stocks and bonds of corporations organized under the laws of the United States and bonds and mortgages secured upon property in the United States, the certificates representing the same being held by a Philadelphia trust company under a power of attorney which gave authority to the agent to sell, assign, or transfer any of them and to invest and reinvest the proceeds, is property owned in the United States within the meaning of the act of October 3, 1913. (T. D. 2876; June 25, 1919. Ct. Dec.)

—— **Orchard development expenses.**

Amounts expended in development of orchards prior to time when productive stage is reached, constitute investments of capital. (T. D. 2690; art. 4.)

—— **Partners.**

Income of partnership accrues to individual partner at time his distributive interest is determined; returns by individuals should include incomes accruing from business of partnerships for business years of partnerships as may have been definitely ascertained by means of book balance, whether distributed or not; partners must make returns of income as individuals, for calendar year, and should include their interest in profits ascertained at end of business year falling within calendar year for which individual return is being rendered. (T. D. 2690; art. 4.)

The income tax law of 1913 is so framed as to deal with gains and profits of a partnership as if they were the gains and profits of the individual partners. (T. D. 2858; June 9, 1919. Ct. Dec.)

Member of partnership need not include as part of net income subject to normal tax, income tax law of 1913, such of his income derived from or through a partnership as has been received by partnership in shape of dividends on stocks owned by it in corporations taxable upon their net income. (T. D. 2858; June 9, 1919. Ct. Dec.)

—— **Pensions.**

Pensions paid by United States, private institutions, or individuals, are to be accounted for in all cases where income of pensioner is liable for income tax. (T. D. 2690; art. 4.)

—— **Proceeds of sale of rights.**

Amounts realized from sale of rights to subscribe to stock is held to be income to the seller. (T. D. 2690; art. 4.)

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Gross income—Continued.

—— **Proceeds of sale of rights**—Continued.

Where corporations, desiring to secure additional capital, propose to issue and sell further shares of stock, reserving to stockholders right to subscribe for a certain number of shares of the new stock issue, proportioned to number previously held, and such stockholders shall sell their rights, it will be held that proceeds of such sale are in their entirety income for year in which rights are sold, and shall be so returned by the stockholders, whether they be individuals or corporations. (T. D. 2690; art. 95.)

—— **Profits from sale of stock.**

When nonresident alien disposes of stock in American corporation by sale, sale and delivery being made within United States, profit will be held to have been derived from sources within United States, and is to be included for purposes of income tax. (T. D. 2690; art. 4.)

When stock is sold from lots purchased at different times and at different prices, and identity of lots can not be determined as to dates of purchase, stock sold shall be charged against earliest purchases of such stock; excess of amount realized on sale over cost of stock, or its fair market price or value as of March 1, 1913, if purchased before that date, will be profit to be accounted for as income; in case of stock received as stock dividend out of surplus other than earnings or profits accrued since March 1, 1913, or of stock in respect of which any such dividend was paid, cost of each share of such stock shall be ascertained as specified in paragraph 28 of Regulations No. 33, as amended. (T. D. 2734; June 17, 1918.)

For purpose of ascertaining gain or loss derived from sale of stock of corporation received as dividend in 1913, 1914, or 1915, out of surplus however created, or received as dividend in 1916 or subsequent years out of surplus other than earnings or profits accrued since March 1, 1913, cost of each share of new stock is the quotient of the cost of the old stock divided by the number of old and new shares added together. (T. D. 2734; June 17, 1918.)

For purpose of ascertaining gain or loss derived from sale of stock in respect of which any stock dividend was paid in 1913, 1914, or 1915, out of surplus however created, or in 1916 or subsequent years out of surplus other than earnings or profits accrued since March 1, 1913, cost of each share of old stock is quotient of cost of old stock divided by the number of old and new shares. (T. D. 2734; June 17, 1918.)

For purpose of ascertaining gain or loss derived from sale of stock received as dividend in 1916 or subsequent years out of surplus earnings or profits accrued since March 1, 1913, cost of each share is valuation at which it was returnable as income, as shown by transfer of surplus to capital account on books of corporation, usually its par value. (T. D. 2734; June 17, 1918.)

For purpose of ascertaining gain or loss derived from sale of stock in respect of which any stock dividend was paid in 1916 or subsequent years out of surplus earnings or profits accrued since March 1, 1913, cost of each share is its original cost, regardless of any stock dividend. (T. D. 2734; June 17, 1918.)

—— **Ranches.**

Amounts expended in development of ranches prior to time when productive stage is reached constitute investments of capital. (T. D. 2690; art. 4.)

—— **Receipt basis—Definition.**

Actual receipt is reduction to possession; constructive receipt is where income is credited to or made available to recipients and is to be reported as income. (T. D. 2690; art. 4.)

—— **Records.**

Every individual, partnership, corporation, or association liable to tax or for collection thereof shall keep such records and render such statements and returns, under oath, as shall be prescribed by the Commissioner of Internal Revenue. (T. D. 2690; art. 50.)

Corporation declaring and paying dividends out of a surplus of earnings accumulated over a period of years should make record in its books of amount of dividends paid out of each year's undistributed surplus or profits and advise stockholders accordingly, in order that dividends received by them may be taxed at respective rates prevailingduring years in which surplus or profits so distributed were earned; provisions of subdivision (b) of section 31 do not apply to distributions made prior to August 6, 1917, out of earnings or profits accrued prior to March 1, 1913. (T. D. 2690; art. 107.)

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Gross income—Continued.

—— **Refunds by cooperative organizations.**

Periodical refunds by cooperative organizations, which are sometimes called "dividends" are wholly different from ordinary dividends based on stock holdings and need not be listed as income by recipient; where recipient claims right to deduct as business expenses any expenditures on which refund is based, sum claimed as deductions must be reduced in proportion to refund received. (T. D. 2737; June 19, 1918.)

—— **Rent.**

Amounts expended by tenants for taxes and necessary repairs under agreement in addition to stipulated cash rental are items of taxable income, and as such should be reported in return of landlord; corresponding amount may be deducted by the landlord. (T. D. 2690; art. 4.)

—— **Royalties.**

Royalty paid to proprietor by those who are allowed to develop or use property, or operate under some right belonging to him, is to be accounted for as income. (T. D. 2690; art. 4.)

—— **State officers or employees.**

Individual who contracts with State, or any political subdivision thereof, for doing of specific things, completion of which will constitute fulfillment of contract on part of such individual, is not an officer or employee of the State or political subdivision thereof within section 4 of the income-tax law and amount received by him is to be accounted for as income. (T. D. 2690; art. 4.)

Where employees of universities receiving salaries paid in part or in whole from funds received under the Smith-Lever Act of May 8, 1914, are officers or employees of a State, they are not required to include in their income-tax returns as taxable income the salaries so received; if organization of college is one which belongs to State and which State governs, legislature may vacate offices, elect new professors, and do whatever it thinks necessary in management of the college; but if colleges are governed by trustees not directly responsible to State legislatures, employees receiving salaries paid in part from Smith-Lever funds are not employees of the State and are not exempt from tax on that ground. (T. D. 2668, Mar. 9, 1918.)

—— **Stock dividends.**

See "Dividends," *ante.*

—— **Trust estates.**

Beneficiary will be required in case of trust estate to account for actual amounts distributed or credited to him. (T. D. 2690; art. 29.)

—— **Undivided profits.**

Taxable income includes share to which individual would be entitled of gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of to prevent imposition of such tax, by permitting such gains or profits to accumulate instead of being divided or distributed; fact that such corporation, etc., is mere holding company, or that accumulation beyond reasonable needs is permitted, shall be prima facie evidence of fraudulent purpose to escape tax, but fact that gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of purpose to escape tax, unless Secretary of Treasury shall certify that, in his opinion, such accumulation is unreasonable for purpose of business; statement of gains and profits, etc., required when requested by Commissioner of Internal Revenue. (T. D. 2690; art. 19.)

—— **United States judges.**

Retired pay of judges of United States Courts is subject to income tax. (T. D. 2690; art. 4.)

Imposition of tax.

Income tax is levied upon income received by (a) individuals—citizens and resident aliens, nonresident aliens; (b) fiduciaries for estates in process of administration or in trust for accumulation of income and individuals as beneficiaries; (c) corporations, joint-stock companies or associations, or insurance companies. (T. D. 2690; art. 1.)

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Imposition of tax—Continued.

Partnerships as such are exempt from income tax on net income; partners must include respective shares of partnership income (whether distributed or not) in returns required of each partner; section 8 (e) prescribes method of computation for both partnerships and partners for purpose of income tax. (T. D. 2690; art. 3.)

Normal tax is levied by both the 1916 act and the 1917 act upon net income in excess of allowable deductions, credits, and exemptions; subject to allowances tax is 2 per cent under each act on total net income from all sources received by citizen or resident alien in preceding calendar year and 2 per cent on net income of nonresident aliens (under act of Sept. 8, 1916, as amended only), received by them in preceding calendar year from all sources in United States, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise. (T. D. 2690; arts. 3, 15-18.)

Additional tax is tax levied at graduated rates upon net income in excess of $5,000; under act of 1916 additional tax is levied upon amount of net income in excess of $20,000, but under act of 1917 such tax is levied upon amount of net income in excess of $5,000, so that above $20,000 combined rates of acts of 1916 and 1917 apply to same income. (T. D. 2690; arts. 3, 15-18, 20.)

Information at source—Amount of payment.

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

—— Annuities.

Annuities representing return of corpus or capital need not be reported. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying annuities of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such annuities and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

—— Bills paid for merchandise, telegrams, etc.

Bills paid for merchandise, telegrams, telephone, freight, storage, and similar charges, do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

—— Brokers.

Every person, corporation, partnership, or association, doing business as a broker, or any exchange or board of trade or other similar place of business, shall, upon request of the Commissioner of Internal Revenue, render correct return under oath, showing names of customers for whom such broker has transacted any business, with such details as to profits, losses, or other information, as may be called for by such return form as to each of such customers. (T. D. 2690; art. 33.)

—— Dutch administration offices.

Dutch administration offices as the registered, but not the actual owners of stock of domestic or other resident corporations in the United States, required to disclose identity of actual owners of said stock for purposes of the withholding provisions of section 13 (f) of act of September 8, 1916, as amended by act of October 3, 1917; returns; forms; certificates; T. D. 2386, revised. (T. D. 2669; Mar. 9, 1918.)

—— Employees' compensation and bills.

Salary, wages, and other compensation for services rendered in December, 1917, but paid in 1918, need not be reported, unless the amount was fully due and passed to the credit of the individual in December, 1917. (T. D. 2670; Mar. 11, 1918.)

Payments made by branches of business houses located in foreign countries to alien employees serving in foreign countries need not be reported. (T. D. 2670; Mar. 11, 1918.)

In case of employer having large number of employees who are moved from place to place and who consequently has no complete record of annual payments to them at any one place, salary of two representative months may be taken to establish a fair monthly wage, and unless yearly payment based on this estimate in the case

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Information at source—Continued.

—— **Employees' compensation and bills**—Continued.

of an employee amounts to $800 or more no return of payments to such employee is required for 1917. (T. D. 2670; Mar. 11, 1918.)

When living quarters, such as camps, are furnished for the convenience of the employer only, the cost need not be added to the compensation of the employee; "living quarters" referred to in paragraph 235, Regulations No. 33, revised, are quarters furnished for the benefit and convenience of employees only. (T. D. 2670; Mar. 11, 1918.)

Payments made to employees in factories where the brass check or number system was in use in 1917 and a record of sufficient detail does not exist and can not be obtained because employees are not longer in the employ of the company, do not require reports of information; in all such cases an accounting system must be installed that will enable such employers to keep an accurate check so that full information can be given in the future. (T. D. 2670; Mar. 11, 1918.)

Heads of branch offices and subcontractors employing labor and keeping the only complete record of payments should file returns of information direct with Commissioner of Internal Revenue, Sorting Division, Washington, D. C.; when record is kept of payments at both main office and branch office return should be filed by former; when no address is available, last known post-office address must be given, as well as street and number, when possible; information as to whether employee is single, head of a family, or married, should be given, when possible. (T. D. 2670; Mar. 11, 1918.)

Bills paid to employees for board and lodging while traveling under orders or when employee is employed on a salary basis do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Returns of information will not be required from disbursing officers of payments made to sailors, soldiers, or civilian employees of the United States Government. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying compensation, wages, etc., of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such compensation, wages, etc., and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Where a person receives a cash compensation for services rendered and in addition thereto living quarters, the value to such person of the quarters furnished constitutes income subject to tax, and return under section 28 is required in each case where cash compensation received plus the value of living quarters furnished equals or exceeds $800 for a tax year. (T. D. 2690; art. 34.)

—— **Foreign items.**

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

The term "foreign item," as used in article 35 of Regulations No. 33, Revised, means any dividend upon stock of foreign corporation or any item of interest upon bonds of foreign countries or foreign corporations, whether such dividend or interest is paid in the United States or by check drawn on a domestic bank. (T. D. 2759; Oct. 2, 1918.)

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed by failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

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Information at source—Continued.

—— **Foreign items**—Continued.

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

The term "foreign corporation." as used in article 35 of Regulations No. 33, Revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

All persons, corporations, etc., undertaking as matter of business or for profit, collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by ——— ——— (name of collecting agent)." (T. D. 2690; art. 48.)

—— **Insurance.**

Payments of premiums made to insurance companies for annual protection do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Payments to insurance companies for the year 1917 do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying insurance premiums of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such insurance premiums and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

—— **Interest.**

Interest accrued on bank deposits before it has been passed to the credit of the individual depositor need not be reported. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying interest of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers and employees of the United States having information as to such payments authorized and required to render due and accurate return, setting forth the amount of such interest and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Requirements for information at source do not apply to payments of interest on obligations of the United States. (T. D. 2690; art. 37.)

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2716; May 28, 1918.)

—— **Letter of transmittal.**

Returns of information for preceding calendar year shall be filed with Commissioner of Internal Revenue on or before March 1 of each year, accompanied by letter of transmittal, under oath (Form 1096), which will show number of returns filed and aggregate amount represented by the payments. (T. D. 2690; art. 34.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed therein. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then

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Information at source—Continued.

—— **Letter of transmittal**—Continued.

to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

—— **Ownership certificates.**

When person receiving payment falling within provisions of law for information at source is not actual owner of income received, name and address of actual owner shall be furnished upon demand of person, corporation, etc., paying income, and in default of compliance with such demand, payee becomes liable to penalty of not less than $20 nor more than $1,000. (T. D. 2690; art. 36.)

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

—— **Professional fees.**

Fees paid to lawyers, doctors, and similar payments aggregating less than $800 for the year, do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

—— **Rent payments.**

Payments of rent made to real estate agents do not require reports of information (but agents must report payments to landlord if the same amounts to $800 or more during 1917.) T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying rent of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such rent and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Intent of law.

Intent and purpose of income-tax law is that all gains, profits, and income of a taxable class shall be charged and assessed with the corresponding income tax, normal and additional, and such tax shall be paid by such owner of such income or proper representative thereof having receipt, custody, control, or disposal of same. (T. D. 2690; art. 49.)

Net income—Alimony.

Alimony or allowance based on separation agreement is not income to recipient thereof, nor is it an allowable deduction for the person paying same. (T. D. 2690; art. 4.)

—— **Allowances to minor children.**

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not allowable deductions in return of income. (T. D. 2690; art. 8.)

—— **Army officers.**

Pay and allowance of Army officers are based on obligation of officer to provide equipment and mounts as personal expense; cost of mounts and equipment is not therefore a deductible expense. (T. D. 2690; art. 8.)

—— **Bad debts—Bankruptcy.**

Actual determination of worthlessness of debt in case of bankruptcy is possible only when settlement in bankruptcy shall have been had; only difference between amount received in distribution of assets of bankrupt and amount of approved claim may be considered for purpose of deduction. (T. D. 2690; art. 8.)

Where settlement is had by way of compromise whereby amount, less than debt claimed, is accepted in full payment and satisfaction, difference between amount

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Net income—Continued.

—— **Bad debts**—Continued.

—— —— **Compromise.**

paid and that claimed is not allowable as deduction for bad debts; where settlement consists of promise to pay amount less than debt, amount promised forms basis of new transaction, and upon failure to make good such promise question will arise as to deductibility of new amount only. (T. D. 2690; art. 8.)

—— —— **Definition.**

Bad debt or worthless debt, which may be deducted in return of income, is debt which has been actually ascertained to be worthless and charged off within taxable year. (T. D. 2690; art. 8.)

—— —— **Mortgage foreclosure sale.**

Where mortgagee buys in property and credits indebtedness with purchase price, difference between price and indebtedness not allowable as deductions; only where purchaser for less than debt is another than mortgagee may difference between debt and net from sale credited be deducted as bad debt. (T. D. 2690; art. 8.)

—— —— **Showing of worthlessness.**

Where all surrounding and attendant circumstances indicate that debt is worthless and uncollectible and that legal action to enforce payment would in all probability not result in satisfaction of execution on judgment, showing of such facts will be sufficient showing of worthlessness of debt for purposes of deduction. (T. D. 2690; art. 8.)

—— —— **Unpaid wages, rents, etc.**

Debts arising from unpaid wages, salary, rents, and items of similar taxable income, not allowed as deduction unless income they represent has been included in return of gross income for year in which deduction as bad debt is sought to be made or in previous year, and debts themselves have been actually ascertained to be worthless and charged off. (T. D. 2690; art. 8.)

—— **Basis.**

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918. Affirmed, T. D. 2744; July 5, 1918.)

Dealer in securities, for purposes of T. D. 2609, is a merchant of securities whether an individual, partnership, or corporation with an established place of business, and whose principal business is the purchase of securities and their resale to customers; one who, as a merchant, buys securities and sells them to customers with a view to the gains and profits that may be derived therefrom. (T. D. 2649; Jan. 30, 1918.)

—— **Citizens and resident aliens.**

Citizens and resident aliens are given the deductions and credits provided by section 5 of the act of September 8, 1916, as amended by the act of October 3, 1917; deductions provided by such section stated. (T. D. 2690; arts. 7, 8.)

—— **Credits—Dividends.**

For purpose of normal tax only, income embraced in personal return shall be credited with amount received as dividends upon stock or from net earnings of any corporation, joint-stock company or association, trustee, or insurance company, which is taxable upon its net income; applicable to nonresident aliens. (T. D. 2690; arts. 9, 11.)

Amount of dividends received by partners shall be allowed as a credit for purpose of computing normal income tax. (T. D. 2690; art. 30.)

—— —— **Excess profits tax.**

After net income shall have been ascertained, it shall be credited with amount of any excess profits tax, assessed for same calendar or fiscal year upon taxpayer, and, in case of member of partnership, with his proportionate share of the excess-profits tax imposed upon the partnership. (T. D. 2690; art. 2.)

Although excess profits tax payment is not an allowable deduction in ascertaining net income, net income shown on any return will be credited with amount of excess profits tax for which taxpayer will be liable for same year. (T. D. 2690; art. 8.)

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Net income—Continued.

—— **Credits**—Continued.

—— —— **Excess profits tax**—Continued.

Net income embraced in return shall be credited with amount of any excess profits tax imposed and assessed for same calendar or fiscal year upon taxpayer, and in case of member of partnership with his proportionate share of such excess profits tax; applicable to nonresident aliens. (T. D. 2690; arts. 9, 11.)

—— —— **Interest.**

Where it is clearly established that debtor corporation has actually withheld and paid to proper officers of the United States the tax on interest on bonds containing tax-free covenant, recipient, having returned such interest as income, may take credit against any tax to which subject on the basis of the return, for tax so paid by debtor corporation. (T. D. 2690; art. 122.)

—— —— **Nonresident aliens.**

In order that nonresident alien may have benefit of deductions and credits provided by Article 11 of Regulations No. 33, he must file or cause to be filed true and accurate return of total income from all sources in United States, and in case of failure to file return tax will be collected on gross income from all such sources. (T. D. 2690; art. 12.)

—— —— **Tax withheld.**

For purpose of normal tax only, credit shall be allowed as to amount of income, normal tax upon which has been paid or withheld for payment at source of income under Title I of the act of September 8, 1916, as amended, or the act of October 3, 1917; applicable to nonresident aliens. (T. D. 2690; arts. 9, 11.)

—— **Definition.**

Net income is difference between gross income and the sum of allowable deductions. (T. D. 2690; art. 6.)

—— **Depletion—Mining properties.**

Every individual claiming and making deduction for depletion of natural deposits shall keep accurate ledger account in which shall be charged fair market value as of March 1, 1913, or the cost, if property was acquired subsequent to that date, of mineral deposits involved, account to be credited with amount of depletion deduction claimed and allowed each year, or amount of depletion shall be credited to depletion reserve account, to end that when sum of credits for depletion equals value of cost of property, no further deduction for depletion will be allowed; the fair market value or cost of property, as case may be, will be basis for determining depletion deduction for all subsequent years during ownership under which value was fixed, and during such ownership there may be no revaluation if it should be found that estimated quantity of deposit was understated; where quantity of mineral deposit prior to March 1, 1913, can not be accurately estimated, necessary if depletion deductions are to be taken, for individual owning deposits, with best information available, to arrive at fair market value of property as of March 1, 1913, which value during period of ownership shall be final; then on basis of most probable number of units in property, the per unit value shall be determined as basis for computing annual depletion allowances; this method and allowances to be continued until, but not beyond, time when value as of March 1, 1913, shall have been extinguished. (T. D. 2690; art. 172.)

Original cost of mineral deposit may be taken as basis for computing annual depletion deductions if fair market value as of March 1, 1913, can not be ascertained otherwise, allowance being made for minerals which may have been removed prior to that date; where property was acquired subsequent to that date, same rule for computing annual depletion deduction will apply, except that basis of computation will be actual cost rather than value as of March 1, 1913. (T. D. 2690; art. 172.)

Where property was acquired by purchase or otherwise (other than by lease) prior to March 1, 1913, amount of invested capital which may be extinguished through annual depletion deductions from gross income will be the market value of mine property so acquired, as of March 1, 1913; value contemplated as basis for depletion deductions must not be based upon assumed salable value of output under current operative conditions, less cost of production, for reason that value so determined would comprehend profits to be realized from operation of property; value must not be speculative but must be determined upon basis of salable value en bloc as of March 1, 1913, of entire deposit of minerals, exclusive of improvements and development work; en bloc value having been ascertained, estimate of number of units

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Net income—Continued.

—— **Depletion—Mining properties**—Continued.

(tons, pounds, etc.) should be made, and en bloc value divided by estimated number of units will be determined per unit value, which, multiplied by number of units mined and sold during any one year, will determine sum which will constitute deduction of that year; deductions computed on like basis may be made from year to year during ownership under which value was determined until aggregate en bloc value as of March 1, 1913, of mine or mineral deposit shall have been extinguished. (T. D. 2690; art. 172.)

Precise manner in which estimated fair market value of mineral deposits, as of March 1, 1913, shall be made, must be determined by owner upon such basis as must not comprehend any operating profits, estimate to be subject to approval of Commissioner; in passing upon accuracy and fairness of estimate due weight to market value of stock of corporation on March 1, 1913, and also to sworn statements as to value of stock filed at any time thereafter for purposes of special excise tax based on value of capital stock imposed by Title I of the act of September 8, 1916, will be attached. (T. D. 2690; art. 172.)

Where depletion deduction is computed on basis of cost or price at which any mine, mineral, lands or properties were acquired, corporation upon request of Commissioner must show that cost or price at which property was brought was fixed for purposes of bona fide purchase or sale by which property passed to owner in fact as well as in form, different from vendor; in determining whether or not price or cost at which any purchase or sale was made represented actual market value, due weight will be given to relationship or connection existing between party or parties selling property and buyer thereof. (T. D. 2690; art. 172.)

Lessee corporation not entitled to any deduction as such, but if lessee, in addition to royalties, pays stipulated sum for right to explore, develop, and operate mine, such sum may be spread ratably over estimated number of units in mine, and thus ascertain amount of invested capital or bonus payment applicable to each unit; per unit cost thus ascertained will be multiplied by number of units removed from mine during any one year, and result will be amount that may be deducted from gross income of that year as return of capital invested; in case of both mine owner and lessee, no deduction for depletion or return of capital will be allowed when invested capital has, through the aggregate of all such deductions, been extinguished; for purpose of computing this deduction in case of lessee company actual amount of bonus paid and not value as of March 1, 1913, will be considered capital invested to be returned through aggregate of annual deductions. (T. D. 2690; art. 172.)

Both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depletion reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

—— —— **Oil and gas properties.**

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for property of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

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Net income—Continued.

—— **Depletion**—Continued.

—— —— **Oil and gas properties**—Continued.

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or the cost, if acquired subsequent to that date, of the oil or gas property, plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited as amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account, with respect to this property and capital invested therein, will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

In case of operating fee owner, amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date, or actual cost of property if acquired subsequent to that date, plus, in either case, cost of development (other than cost of physical property incident to such development) up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

Estimate, subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient when multiplied by number of units removed from territory in one year will determine amount which will be allowably deducted from gross income for that year on account of depletion or as return of invested capital until total of such deductions shall equal capital invested. (T. D. 2690; art. 170.)

—— —— **Timberlands.**

In case of timberlands, fair market price or value of timber standing March 1, 1913, or cost of timber when purchased was made subsequent to that date, will be basis for calculation of depletion, and this value as of March 1, 1913, or cost when subsequently purchased, is not to be exceeded for purposes of deduction in returns of income; whole of such value is to be distributed over entire amount of standing timber on those respective dates; rules governing timber-owning companies. (T. D. 2690; arts. 8, 173.)

—— **Depreciation—Computation.**

Reasonable allowance for wear and tear of property arising out of its use or employment in business or trade is to be based upon cost of such property or on its fair market price or value as of March 1, 1913, if acquired prior thereto; in absence of proof to contrary it will be assumed that such value as of March 1, 1913, is cost of property, less depreciation up to that date. (T. D. 2754; Aug. 23, 1918.)

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Net income—Continued.

—— **Depreciation**—Continued.

—— —— **Costumes.**

Costumes purchased and used exclusively in production of a play and which are not adapted for occasional personal use and are not so used are part of the equipment of a business, and, as such, subject to depreciation in value on account of wear and tear arising from their use in the business; reasonable allowance for such depreciation may be claimed. (T. D. 2690; art. 8.)

—— —— **Mining properties.**

Operator will be permitted to deduct from gross income of each year reasonable allowance for depreciation of all physical property used in connection with operation of mine and owned by operator; for this purpose the actual cost (not value) will be equitably distributed over useful life of such property until true salvage value has been reached; both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

—— —— **Oil and gas properties.**

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

—— **Destruction of property.**

Property destroyed by order of authorities of State or of United States may be claimed as a loss; if reimbursement is made, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

—— **Excess profits tax.**

Although excess profits tax payment is not an allowable deduction in ascertaining net income, net income shown on any return will be credited with amount of excess profits tax for which taxpayer will be liable for same year. (T. D. 2690; art. 8.)

—— **Excise taxes.**

Excise taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

—— **Expenses—Administration.**

Expenses of administration of estate, such as court costs, attorneys' fees, executor's commissions, etc., are chargeable against corpus of estate and are not allowable deductions. (T. D. 2690; art. 8.)

—— —— **Capital investments.**

Amounts expended in development of orchards prior to time when productive stage is reached, constitute investments of capital. (T. D. 2690; art. 4.)

Where leasehold is sold for specified sum, purchaser may take as deduction an aliquot part of such sum, each year, based on number of years lease has to run. (T. D. 2690; art. 8.)

Amounts to be assessed and paid under mutual agreement between bondholders or stockholders of corporation to be used in reorganization of corporation are investments of capital and not deductible. (T. D. 2690; art. 8.)

Amount expended for architectural service is part of cost of building and is not a deductible business expense; cost of defending title or perfecting title to property constitutes part of the cost of property, and is not a business expense. (T. D. 2690; art. 8.)

Amounts expended for securing copyright and plates which remain in possession of and as property of person making payments are investments of capital and can not be allowed as deductions. (T. D. 2690; art. 8.)

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Net income—Continued.

—— **Expenses**—Continued.

—— —— **Commissions paid.**

Commissions paid in purchasing and selling securities are a part of the cost of selling price of the securities and not otherwise deductible; they do not constitute expense deductions. (T. D. 2690; art. 8.)

—— —— **Compensation payments.**

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Amounts paid for salary received for all services rendered are deductible as business expense when expenditures are occasioned by the service in respect of which salary is paid. (T. D. 2690; art. 8.)

—— —— **Reimbursements.**

Amounts paid out for expense incident to service rendered and which are reimbursible, are not deductible as expense, nor are they to be returned as income when received in reimbursements. (T. D. 2690; art. 8.)

—— —— **Rental payments.**

In case of professional man who rents property for residential purposes but receives there clients, patients, or callers in connection with his professional work (place of business being elsewhere), no part of rent is deductible as business expense. (T. D. 2690; art. 8.)

—— **Farms.**

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools may be included under this item. (T. D. 2690; art. 4.)

Under paragraph 7 of section 5 (a) of the act of 1916 there may be claimed a reasonable allowance for depreciation on farm buildings (other than dwelling occupied by owner), farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 4.)

Where expenses incurred in operating a farm for recreation or pleasure are in excess of receipts therefrom, entire receipts from sale of products may be ignored in rendering return of income, and expenses will not constitute allowable deductions in return of income derived from other sources. (T. D. 2690; art. 4.)

Money expended for stock for breeding purposes is regarded as capital invested and where stock dies from disease or injury or is killed by order of authorities of State or United States and cost thereof has not been claimed as item of expense, amounts so expended, less any depreciation which may have been previously claimed, may be deducted as a loss; if reimbursement is made by State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

Individual engaged in raising and selling stock may not claim as loss value of such animals raised as die; in case of animals purchased, which die, amount of purchase money will be an allowable deduction, if not previously deducted as business expense. (T. D. 2690; art. 4.)

When farm products are held for favorable market prices, no deduction on account of shrinkage in weight or physical value or losses by reason of such shrinkage or deterioration in storage shall be allowed. (T. D. 2690; art. 4.)

—— **Gifts or bonuses.**

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered; if, when added to salaries, they do not exceed reasonable compensation for services, they will be regarded as part of the wage or hire and therefore an ordinary and necessary expense of operation and maintenance and as such will be deductible. (T. D. 2690; art. 8.)

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Net income—Continued.

—— **Insurance premiums.**

Premiums paid on life insurance policies covering lives of officers, employees, or those financially interested in any business conducted as a partnership, or by an individual, shall not be deducted in computing net income of such individual or in computing profits of such partnership for purpose of paragraph (e) of section 8 of the act of September 8, 1916, as amended. (T. D. 2690; art. 30.)

Premium paid for insurance on property used for business purposes is an allowable deduction; insurance paid on dwelling owned and occupied by taxpayer is personal expense and not deductible, nor is premium paid for life insurance by insured; premiums paid in advance covering period of several years are to be taken as deduction on basis of one or two methods: when books are kept on cash basis entire amount is deductible in year in which premium is paid, but where books are kept on accrual basis premium is to be prorated over period covered by insurance. (T. D. 2690; art. 8.)

—— **License taxes.**

License taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

—— **Losses.**

For purpose of income tax good will is capable of neither appreciation nor depreciation, and amount claimed to represent its decline in value is not an allowable deduction in computing tax liability of an individual or corporation. (T. D. 2690; art. 8.)

Difference between losses provided for in paragraph 4 of section 5 of the income-tax act and that provided for in paragraph 5 is illustrated by difference between definitions of "avocation" and "vocation;" losses under paragraph 4 come under the head of vocation, while those under paragraph 5 come under the head of avocation, and losses under the latter head may be deducted to an amount not exceeding profits arising from transactions under that head. (T. D. 2690; art. 8.)

The language "losses * * * incurred in trade," as used in Section II, subdivision B, act of October 3, 1913, means losses incurred in the actual business of the taxpayer as distinguished from isolated transactions. (T. D. 3029; June 19, 1920, Ct. Dec.)

Member of firm engaged in business of manufacturing is not entitled under Section II, subdivision B, act October 3, 1913, to deduct from his gross income loss sustained from sale of shares of stock. (T. D. 3029; June 19, 1920. Ct. Dec.)

—— **Nonresident aliens.**

Nonresident aliens are given deductions and credits as provided by section 6 of the act of September 8, 1916, as amended by the act of October 3, 1917; deductions provided for by such section stated. (T. D. 2690; arts. 7, 10.)

Where income is such as to call for additional tax and return is not filed commissioner will cause return to be made and include income from all sources concerning which he has information and shall assess tax and collect same from one or more or all of the sources of income within United States without allowance for deductions and credits under section 6 of the income-tax act. (T. D. 2690; art. 32.)

Nonresident alien is not entitled to benefit of the several deductions and credits provided by section 6 of the act of September 8, 1916, as amended, unless return of net income is filed by him or his authorized agent. (T. D. 2690; art. 32.)

Nonresident alien is not entitled to any specific exemption as a deduction from net income from sources within United States. (T. D. 2690; art. 32.)

—— **Occupational taxes.**

Business or privilege taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

—— **Reimbursements.**

In case of per diem allowance in lieu of subsistence while under traveling orders, total allowance is income, and there may be taken as a deduction for expense the amount actually expended from such allowance for actual necessary traveling expenses. (T. D. 2690; art. 4.)

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Net income—Continued.

—— **Rentals.**

Where leasehold is sold for specified sum, purchaser may take as deduction an aliquot part of such sum each year based on number of years lease has to run. (T. D. 2690; art. 8.)

Stock trust certificates or leased line certificates, as case may be, issued by lessee for purpose of securing or holding control of stock of lessor are held to be issued in lieu of certificates of capital stock, and they will be treated as capital stock and amounts received by holders are dividends to them to be treated as rentals by both lessee and lessor and constitute allowable deduction in one case and item of income in other, accordingly as they are paid and received. (T. D. 2690; art. 104.)

—— **Royalties.**

Owner of patent may deduct from gross income each year, until capital invested therein is extinguished, sum ascertained by dividing cost of patent by number of years constituting its life or by number representing years of its life remaining after date of acquirement. (T. D. 2690; art. 113.)

—— **Taxes.**

Taxes on bank stock paid under legal requirement by bank for its stockholders are deductible by stockholders and not by bank; where bank stock is sold and transferred between date of assessment and payment of tax, in absence of statute governing, stockholder liable for tax (if tax was actually paid) will have benefit of tax deduction; this is question of fact and to be determined as such. (T. D. 2690; art. 8.)

All taxes levied by general taxing authority, including tax imposed and paid under act of October 3, 1917, except war excess-profits, income taxes, and taxes assessed against local benefits, are allowable deductions. (T. D. 2690; art. 8.)

Taxes paid by tenant to or for landlord for business property are additional rent and constitute deductible item to the tenant and taxable income to landlord, and amount of such tax will be deductible by the landlord. (T. D. 2690; art. 8.)

Tax upon right to receive an interest in the estate of a decedent is not a charge either against the person receiving the interest or the property or right accruing to him; the legatee or distributee merely receives the balance due after payment of the tax—he does not receive the entire interest and then pay the tax—and he is consequently not entitled to deduct the amount as a tax paid by him. (T. D. 2933; Oct. 9, 1919. T. D. 3050; July 27, 1920. Ct. Decs.)

Tax imposed by laws of New York upon transfer of property by will or under interstate laws is not deductible in ascertaining net income of legatee or distributee under act of October 3, 1913; it is not a tax within the meaning of paragraph B, Section II, permitting deduction of all National, State, county, school, and municipal taxes paid during the year. (T. D. 2933; Oct. 9, 1919. T. D. 3050; July 27, 1920. Ct. Decs.)

—— **Tenants' expenditures.**

Amounts expended by tenants for taxes and necessary repairs under agreement, in addition to stipulated cash rental, may be deducted by the landlord. (T. D. 2690; art. 4.)

—— **Warrants of city, etc.**

In cases wherein warrants are issued by a city or other political subdidvision of a State and are accepted by contractor in payment for public work done, face value of such warrants must be returned as income for year in which they are received; if contractor does not receive and can not recover full face value of such warrants he may deduct from gross income for year in which warrants are converted into cash any loss sustained, which loss will be measured by difference between face value of warrants returned as income and amount actually received for them in cash or its equivalent. (T. D. 2690; art. 108.)

Payment.

See "Collection and payment," *ante*.

Penalties—Delay in filing returns.

If return is made and placed in the United States mail, properly addressed, and postage paid, in ample time, in due course of mail, to reach office of collector or deputy collector, on or before last due date, no penalty will attach should return not be actually received by such officer until subsequent to that date. (T. D. 2690; art. 52.)

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Penalties—Delay in filing returns—Continued.

Penalties for failure to make return within time fixed by law are 50 per cent of the amount of tax shown by correct return, besides the specific penalty of not less than $20 nor more than $1,000; specific penalties attach to person, and in case of death of such person are nonenforceable; ad valorem penalties attach to income and are to be enforced regardless of the death of the owner of the income by which penalty is measured. (T. D. 2690; art. 52.)

Where limitation of statute as to assessment has run and written waiver of exemption from assessment is given by taxpayer, the ad valorem penalties of 50 per cent, addition to tax, is not to be assessed for delinquency in filing return. (T. D. 2690; art. 52.)

—— **Fraudulent returns.**

Penalties for false or fraudulent return or statement, wilfully made with intent to defeat or evade assessment of tax, are 100 per cent to be added to amount of tax shown by correct return, and the specific penalty of a fine as for misdemeanor, not exceeding $2,000, or imprisonment not exceeding one year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 53.)

Any person or officer of any corporation required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with the intent to defeat or evade the assessment required by Parts II and III of Title I of the act of September 8, 1916, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution. (T. D. 2690; art. 232.)

—— **Information at source.**

When person receiving payment falling within provisions of law for information at source is not actual owner of income received, name and address of actual owner shall be furnished upon demand of person, corporation, etc., paying income, and in default of compliance with such demand, payee becomes liable to penalty of not less than $20 nor more than $1,000. (T. D. 2690; art. 36.)

—— **Nonpayment of tax.**

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

There shall be added to tax 5 per cent on amount of tax unpaid and interest at rate of 1 per cent per month from time same became due, except from estates of insane, deceased, or insolvent persons, and delinquents shall also be liable for specific penalty of not less than $20 nor more than $1,000. (T. D. 2690; art. 51.)

—— **Specific penalties.**

The specific penalty, subject to authority of the Commissioner of Internal Revenue to entertain offers in compromise, is fixed at not less than $20 nor more than $1,000, and is asserted for refusal or neglect to pay tax, to make return, or supply information required under the income-tax law and at the time required, and is to be asserted independently of the penalty by way of "addition to the tax." (T. D. 2690; art. 54.)

Persons liable.

Dividends on stock of domestic corporations or resident alien corporations are, prima facie, income of record owner of the stock, and such record owner will be liable for income tax, normal or additional, according to his or its individual or corporate status unless disclosure of actual ownership is made to commissioner which shall show who the owner is and his address, and that record owner is not the actual owner. (T. D. 2690; art. 32.)

Rate of taxation.

The normal tax upon net income in excess of allowable deductions, credits, and exemptions is 2 per cent under both the acts of September 8, 1916, and October 3, 1917, on total net income from all sources received by a citizen or resident alien

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Rate of taxation—Continued.

in the preceding calendar year, and 2 per cent on the net income of nonresident aliens (under act of September 8, 1916, as amended, only) received by them in preceding calendar year from all sources in United States. (T. D. 2690; art. 3.)

The income of estates in process of administration or in trust for accumulation of income is taxed as for an unmarried person. (T. D. 2690; art. 3.)

Corporation declaring and paying dividends out of surplus of earnings accumulated over period of years should make record in its books of amount of dividends paid out of each year's undistributed surplus or profits and advise stockholders accordingly, in order that dividends received by them may be taxed at respective rates prevailing during years in which surplus or profits so distributed were earned. (T. D. 2690; art. 107.)

Additional tax is levied at graduated rates upon net income in excess of $5,000; under act September 8, 1916, the additional tax is levied upon amount of net income in excess of $20,000, and under the act of October 3, 1917, such tax is levied upon amount of net income in excess of $5,000, so that above $20,000 the combined rates of the two acts apply to the same income. (T. D. 2690; art. 3.) Table showing rates will be found under article 20.

Refund claims.

See "Claims."

Regulations published.

Regulations No. 33, governing collection of income taxes imposed by act of September 8, 1916, as amended by act of October 3, 1917, published. (T. D. 2690.)

Retroactive operation of act.

The retroactivity of the act of October 3, 1913, to March 1, 1913, a date not prior to the adoption of the 16th amendment to the Constitution, is permissible. (T. D. 2731; June 11, 1918. Ct. Dec.)

An income tax may be and was imposed by retrospective law. (T. D. 3043; July 2, 1920. Ct. Dec.)

Returns—Agents.

Return may be made by an agent when by reason of illness, absence, or nonresidence, person liable for return is unable to make same, agent assuming responsibility of making return and incurring penalties provided for intentional false or fraudulent return. (T. D. 2690; art. 22.)

—— Amendment.

Where further tax is found to be due as result of audit of return or agent's report, an amended return or waiver will not be required, except where discovery of tax is made subsequent to expiration of three-year period of limitation. (T. D. 2690; art. 38.)

—— Basis.

Individual keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income may, may subject to regulations made by the Commissioner of Internal Revenue, with approval of Secretary of the Treasury, make his return upon the basis on which his accounts are kept. (T. D. 2690; art. 24.)

Returns should be made on basis of receipt unless individual liable for return keeps account on some other basis which will clearly reflect his income. (T. D. 2690; art. 26.)

Returns of individuals can not be accepted prior to close of calendar year; exception, in cases of closed administration, is matter of convenience to those concerned, and is granted because period to be covered by return has completely elapsed. (T. D. 2690; art. 26.)

—— Copies.

See "Inspection," *post.*

Original income return or copy thereof may be furnished by Commissioner to United States attorney for use as evidence before United States grand jury or in litigation in any court, where the United States is interested in the result, or for use in preparation for such litigation, or to attorney connected with Department of Justice designated by Attorney General to handle such matters if and when Attorney General states to Commissioner in writing that such attorney is so desig-

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Returns—Continued.

—— Copies—Continued.

nated; return or copy thereof thus furnished must be limited in use to purpose for which furnished and is under no conditions to be made public, except where publicity necessarily results from such use; where original return is necessary, it shall be placed in evidence by the Commissioner for that purpose, and after being placed in evidence it shall be returned to files in office of Commissioner in Washington; original return will be furnished only in exceptional cases, and then only when it is made to appear that ends of justice may otherwise be defeated; neither the original nor a copy desired for use in litigation where United States Government is not interested and where such use might result in making public the information contained therein will be furnished, except as otherwise provided in the next succeeding paragraph. (T. D. 2962; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

—— Exemption.

Under act of September 8, 1916, as amended, and act of October 3, 1917, returns required in case of net incomes equal to or in excess of $1,000 or $2,000, according to marital status of persons making return; in return so required basic personal exemption will be $1,000 under act of October 3, 1917, and $3,000 under act of September 8, 1916, as amended; exemption allowed husband and wife living together may be taken by one or divided between them in such ratio as they may determine. (T. D. 2690; art. 26.)

Wherever income of individual is from tax-exempt bonds, and amount of income other than that from tax-exempt securities is less than amount of income for which return is required, no return is to be made; interest from securities exempt under section 4 of the law is not to be included in returns. (T. D. 2690; art. 26.)

—— Farmers—Accounts.

Farmers who keep books according to some approved method of accounting, which clearly show net income, and take annual inventories, may prepare returns in accordance with showing made by such books and inventories; ascertainment of gross income where inventory method is adopted by farmer. (T. D. 2665; Mar. 8, 1918.)

—— —— Deductions.

Amount expended in purchasing stock for resale is an investment of capital and is not to be taken as an item of expense for year in which stock was purchased or for any subsequent year, but when stock so purchased is sold its cost is to be deducted from sales price in ascertaining amount of gain or profit returnable for tax purposes, return where cost of stock or farm products purchased in 1916 or any previous year for resale has been claimed as a deduction. (T. D. 2665; Mar. 8, 1918.)

All items of expense connected with the planting, cultivating, harvesting, and marketing of a crop, or the care, feeding and marketing of live stock, may be claimed as deductions only in the return rendered for the year during which such expenditures were made; this applies even though crop or stock may not have been sold or exchanged for money or money equivalent during year for which return is rendered. (T. D. 2665; Mar. 8, 1918.)

—— —— Definitions.

The term "farm," as used in instructions governing preparation of income tax returns by farmers, held to embrace farm in the ordinarily accepted sense, and includes plantations, ranches, stok farms, dairy farms, poultry farms, truck farms, and all land used for similar purposes. (T. D. 2665; Mar. 8, 1918.)

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Returns—Continued.

—— **Farmers**—Continued.

—— —— **Definitions**—Continued.

All corporations, partnerships, or individuals who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are farmers for the purposes of instruction governing preparation of income tax returns by farmers. (T. D. 2665; Mar. 8, 1918.)

—— —— **Exchange of produce for merchandise.**

Where farmer exchanges farm produce for merchandise, groceries, or mill products, the market value of the article or product received in exchange is to be returned as income. (T. D. 2665; Mar. 8, 1918.)

—— —— **Inventories.**

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock and products on hand at the close of the year, and then deduct amount expended in purchasing live stock and products plus inventory of live stock and products at beginning of year; no deduction can be made for stock or products lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase or age or other causes; cost price of articles sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

—— —— **Produce consumed by family.**

A farmer is not required to include in his income tax return the value of farm produce consumed by himself and family. (T. D. 2665; Mar. 8, 1918.)

—— —— **Receipts and disbursements.**

Farmers who do not keep books of account and ascertain their gross income by inventory should prepare returns of annual net income on basis of actual receipts and disbursements in order that returns may be susceptible of audit for purposes of verification. (T. D. 2665; Mar. 8, 1918.)

—— —— **Time as of which return made.**

All gains, profits, and income derived from sale or exchange of farm products, whether produced on the farm or purchased and resold by the farmer, shall be included in the return of income for year in which products were actually marketed and sold. (T. D. 2665; Mar. 8, 1918.)

Rents received in crop shares must be returned as of year in which shares are reduced to money or money equivalent, and allowable deductions must be claimed in return of income for tax year in which they apply, although expenses and deductions may be incident to products which remain unsold at end of year. (T. D. 2690; art. 4.)

—— **Fiduciaries—Amount of income.**

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

—— —— **Deed of trust.**

A deed of trust must be absolute so far as the conveyance of title is concerned and irrevocable by the donor, otherwise income from property in question will accrue to donor and must be accounted for by him. (T. D. 2690; art. 29.)

—— —— **Definition.**

"Fiduciary" is a term which applies to all persons or corporations that occupy positions of peculiar confidence toward others, such as trustees, executors, or administrators; fiduciary for income-tax purposes is any person or corporation that holds in trust an estate of another person or persons; there may be fiduciary relationship between an agent and a principal, but the word "agent" does not denote a "fiduciary" within meaning of income tax law. (T. D. 2690; art. 29.)

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Returns—Continued.

—— **Fiduciaries**—Continued.

—— —— **Depreciation.**

Where terms of will or trust or decree of court provide for keeping corpus of trust estate intact and where physical property has suffered depreciation through its employment in business, deduction from gross income to care for this depreciation, where deduction is applied or held by fiduciary for making good such depreciation may be claimed by fiduciary in his return; contents of return. (T. D. 2690; art. 29.)

—— —— **Executors or administrators.**

Where net income of decedent from January 1 to date of death within year was $1,000 or over, if unmarried, or $2,000 or over, if married, return must be made by executor or administrator, who may claim all deductions and exemptions to which decedent would have been entitled; executors and administrators whose duty consists of administering on estate for purposes of its distribution stand, during period of administration, instead of their principal, and must make returns of income for estate, and pay tax due. (T. D. 2690; art. 4.)

Administrators or executors may, upon final accounting, file return for income of estate for calendar year in which administration was closed, attaching thereto copy of certificate, under seal, setting forth fact of final accounting and discharge; liability for return is fixed as of December 31, and return will be required in accordance with provisions of law existing on that date. (T. D. 2690; art. 26.)

An executor acts for his principal and not for the beneficiaries of the estate of his principal, and beneficiaries are not entitled, as such, to inspect returns filed by such executor. (T. D. 2690; art. 26.)

Ancillary administrator is merely an agent of the domiciliary administrator and should transmit to him all information as to income of estate received by ancillary administrator, so that original administrator may make return covering entire income of estate. (T. D. 2690; art. 26.)

Where, during period of administration, executor converts estate into money to settle estate and close administration, realizing a profit which with other income exceeds $1,000, return should be made covering period of administration, in which should be included all gains, profits and income during such period. (T. D. 2690; art. 29.)

—— —— **Incompetents.**

Committee of property of incompetent person to be fiduciary for purpose of income tax and required to make return on Form 1040, revised, for incompetent, whenever amount of income is sufficient to require same. (T. D. 2690; art. 29.)

—— —— **Joint fiduciaries.**

Return by one of two or more joint fiduciaries in form prescribed, filed in district in which such fiduciary resides, shall be sufficient compliance with requirement for fiduciary return. (T. D. 2690; art. 29.)

—— —— **Marital status of beneficiaries.**

Fiduciaries acting for minors or other incompetents required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

—— —— **Nonresident alien beneficiaries.**

Where beneficiary is nonresident alien individual, tax is to be accounted for by fiduciary on return of income for such nonresident alien beneficiary, on income tax Form 1040 or 1040A, as case may be. (T. D. 2690; art. 28.)

Where fiduciary in United States is recipient of trust income for which a nonresident alien is the sole beneficiary, fiduciary required to make full and complete return on Form 1040 or 1040A, as case may be, for such income on behalf of nonresident alien, and pay any and all normal tax found by such return to be due, and any and all surtax, provided the income is not returned for the purpose of the tax by the beneficiary; where there are two or more beneficiaries, one or all of whom are nonresident aliens, fiduciary shall render return on Form 1041, and personal return on Form 1040 or 1040A, for each nonresident alien beneficiary. (T. D. 2690, art. 29, as amended by T. D. 2988; Mar. 3, 1920.)

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Returns—Continued.

—— **Fiduciaries**—Continued.

—— —— **Oath.**

Fiduciary making return shall make oath that he has sufficient knowledge of affairs of person, trust, or estate for whom or which he acts to enable him to make return, and that same is to best of his knowledge and belief true and correct. (T. D. 2690; art. 29.)

—— —— **Parent and child.**

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed guardian and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax, in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

—— —— **Power of attorney.**

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority confererd by power of attorney, is not a fiduciary within the income-tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney liability under the law rests with the principal. (T. D. 2690; art. 29.)

—— —— **Several estates.**

Fiduciary acting for beneficiary in more than one estate or trust is required to account for each estate separately when amounts are such as to require filing of a return and also a return of information; fiduciary acting for minor or insane person having net income of $1,000 or $2,000, according to marital status of such person, required also to file return for such incompetent on Form 1040 or 1040A and pay tax found to be due, when there is more than one beneficiary of the income of the same trust. (T. D. 2690; art. 29.)

—— —— **Taxes paid.**

All fiduciaries are indemnified against claims or demands of their beneficiary for all payments of taxes which they shall be required to make, and they shall be credited for such payments in any accounting which they make as such fiduciaries. (T. D. 2690; art. 29.)

—— —— **Trust estates as entities.**

Where, in case of more than one trust, creator in each instance is same person and trustee in each instance is the same, trustee should make single return on Form 1041 for all trusts in his hands, notwithstanding fact that they arise from different instruments; when trusts are created by different persons for benefit of same beneficiary, trustee should make return for each trust separately on Form 1041. (T. D. 2690; art. 29.)

Where income under the provisions of section 2 (b) of the act of September 8, 1916, is accounted for in return by the executor, administrator, or trustee, and the tax shall have been assessed and paid, income is therefore freed of all tax liability; return on Form 1040 or 1040A, subject to all deductions and exemptions, shall be made by executor or administrator for estate during period of administration and entire tax paid thereon. (T. D. 2690; art. 29.)

—— —— **Unascertained beneficiaries.**

Income accumulated in trust for unascertained persons or persons with contingent interests is income accruing to the estate and is taxable to the estate. (T. D. 2690; art. 29.)

—— —— **Undistributed income.**

Income held for future distribution under terms of will or trust is taxable to the estate except when returned by the beneficiary for the purpose of the tax. (T. D. 2690; art. 29.)

—— **Forms.**

Forms of returns are provided by Commissioner of Internal Revenue and are to be had from collectors of internal revenue of the several collection districts. (T. D. 2690; art. 23.)

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Returns—Continued.

—— Forwarding.

Annual returns will be forwarded by collectors by registered mail or express to Commissioner of Internal Revenue, with list for month in which returns are filed; collectors must provide that said returns and all forms relating thereto are securely sealed in envelopes or packages before forwarding the same. (T. D. 2690; art. 25.)

—— Fraud.

In cases of intentional or fraudulent return, Commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law, or require necessary corrections to be made, and assessment thereof shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand, there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

Penalties for false or fraudulent return or statement, wilfully made with intent to defeat or evade assessment of tax, are 100 per cent to be added to amount of tax shown by correct return, and the specific penalty of a fine as for misdemeanor, not exceeding $2,000, or imprisonment not exceeding one year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 53.)

Any person required by law to make, render, sign. or verify any return, who makes any false or fraudulent return or statement with the intent to defeat or evade the assessment required by Parts II and III of Title I of the act of September 8, 1916, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution. (T. D. 2690; art. 232.)

—— Gifts.

In connection with claim for deduction of contributions or gifts on returns of income there shall be stated name and address of each organization to which gift was made, and the date and amount of the gift in each case; where gift is other than money basis for calculation of value shall be fair market value of property subject to gift at time of gift. (T. D. 2690; art. 8.)

—— Husband and wife.

Unless wife has separate estate requiring her to file separate return or to join with her husband in return which shall set forth her income separately, husband should include in return income accruing to wife for services rendered by her, or sale of product of her labor; actual proceeds coming into wife's possession during tax year constitute income to be included, and not amount estimated upon acceptance prior to payment for articles sold. (T. D. 2690; art. 26.)

Where husband and wife file separate returns, one being filed in time and other delinquent, such returns are not supplemental of each other and delinquency must be answered for by one in connection with whose return it occurred. (T. D. 2690; art. 26.)

Exemption allowed husband and wife living together may be taken by one or divided between them in such ratio as they may determine. (T. D. 2690; art. 26.)

—— Illness or absence.

Return may be made by an agent when by reason of illness, absence, or nonresidence person liable for return is unable to make same, agent assuming responsibility of making return and incurring penalties provided for intentional false or fraudulent return; in case of sickness or absence of citizens and residents extension not exceeding 30 days may be granted. (T. D. 2690; art. 22.)

—— Inspection.

Except as otherwise provided, Commissioner may, in his discretion, upon written application setting forth fully reasons for request, grant permission for inspection of returns; application will be considered by Commissioner and decision reached by him whether applicant has met conditions imposed by regulations and whether reasons advanced for permission to inspect are sufficient to permit the inspection; such written application is not required of officers and employees of the Treasury Department whose official duties require inspection of a return, or of the Solicitor of Internal Revenue. (T. D. 2961; Jan. 7, 1920.)

When head of executive department (other than Treasury Department) or any other United States Government establishment, desires inspection of return in

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Returns—Continued.

—— **Inspection**—Continued.

connection with some matter officially before him, the inspection may, in discretion of Secretary of the Treasury, be permitted upon written application to him by head of such department or other Government establishment, such application to be signed by such head and to show why inspection is desired, name and address of taxpayer who made return, and name and official designation of one it is desired shall inspect the return; the reason submitted for permission to inspect the return shall be considered by the Secretary and decision reached by him whether reasons are sufficient to permit inspection. (T. D. 2961; Jan. 7, 1920.)

Return of partnership shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; and by any individual (or his duly constituted attorney in fact or legal representative) who was member of such partnership during any part of time covered by the return, upon satisfactory evidence of such fact being furnished. (T. D. 2961; Jan. 7, 1920.)

Joint return of husband and wife shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection, and by the Solicitor of Internal Revenue; and by either spouse for whom return was made or his or her duly constituted attorney, upon satisfactory evidence of such relationship being furnished. (T. D. 2961; Jan. 7, 1920.)

Return of individual is open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; by person who made return, or by his duly constituted attorney in fact; by administrator, executor or trustee of taxpayer's estate, or by duly constituted attorney in fact of such administrator, executor or trustee, where maker of return has died; and, in discretion of Commissioner, by one of the heirs at law or next of kin of such deceased person upon showing that he has a material interest which will be affected by information contained in return. (T. D. 2961; Jan. 7, 1920.)

A person who, under the Regulations, is permitted to inspect a return may make and take copy thereof or memorandum of data contained therein. (T. D. 2961; Jan. 7, 1920.)

Except as to returns or copies thereof for use in legal proceedings, returns may be inspected only in the office of Commissioner of Internal Revenue, Washington, D. C. (T. D. 2961; Jan. 7, 1920.)

When it becomes necessary for the department to furnish returns or copies thereof for use in legal proceedings, inspection of such returns or copies that necessarily results from such use is permitted. (T. D. 2961; Jan. 7, 1920.)

Written statement filed with Commissioner designed to be supplemental to and to become part of tax return shall be subject to same rules and regulations as to inspection as are tax returns themselves. (T. D. 2961; Jan. 7, 1920.)

—— **Interest.**

Wherever income of individual is from tax-exempt bonds, and amount of income other than that from tax-exempt securities is less than amount of income for which return is required, no return is to be made; interest from securities exempt under section 4 of the law is not to be included in returns. (T. D. 2690; art. 26.)

—— **Mineral properties.**

Operator of mining properties, or lessee thereof, required to attach to his return statement setting out certain specified data. (T. D. 2690; art. 172.)

—— **Nonresident aliens.**

In order that nonresident alien may have benefit of deductions and credits provided by article 11 of Regulations No. 33, he must file or cause to be filed true and accurate return of total income from all sources in United States, and in case of failure to file return tax will be collected on gross income from all such sources. (T. D. 2690; art. 12.)

When all income tax to which income of nonresident alien is subject is not withheld at source, return will be required to be filed by or on behalf of said alien, and penalty for failure to make return in time will attach. (T. D. 2690; art. 13.)

Agent of nonresident alien is responsible for correct return of all income accruing to his principal within purview of the agency, and agent will be responsible for complete return; agency appointment will determine how completely the agent is substituted for the principal for income-tax purposes. (T. D. 2690; art. 32.)

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Returns—Continued.

—— **Nonresident aliens**—Continued.

In all cases proper representative in United States of a nonresident alien, with respect to income derived by such alien from sources within the United States, shall make return for such nonresident of all such income coming into his custody or control. (T. D. 2690; art. 32.)

Responsible heads or representatives of nonresident aliens in connection with any sources which said aliens may have in United States shall make full and complete return of income and shall pay any and all tax, normal and additional, assessed upon income received by them in behalf of their principals, in all cases where tax on income so in their receipt, custody, or control shall not have been withheld at source. (T. D. 2690; art. 32.)

Where amount of income is such as to call for additional tax and return shall not be filed, commissioner will cause return to be made, and include therein income of nonresident alien from all sources concerning which he has information. (T. D. 2690; art. 32.)

Where actual owner of stock of domestic corporation or resident alien corporation is nonresident alien individual or corporation, and record owner is an individual, firm, or corporation in the United States (citizen or resident alien) and showing of actual ownership is made, record owner will be held to have receipt, custody, control, and disposal of dividend income and will be required to make return for actual owner. (T. D. 2690; art. 32.)

Where actual owner of stock of domestic corporation or resident alien corporation is nonresident alien corporation, return will be made regardless of amount of dividend and normal income tax will be paid, and when actual owner is nonresident alien individual return will be made regardless of amount of income. (T. D. 2690; art. 32.)

When it shall appear from disclosure that actual owner of stock of domestic corporation or resident alien corporation is nonresident alien partnership, all certificates making disclosure shall be transferred to the commissioner for information of collector, but no return will be made by such partnership, and no amount will be retained by the representative of such partnership in the United States, unless and until such representative shall be so instructed by the commissioner. (T. D. 2690; art. 32.)

When nonresident alien record owner of stock of domestic or resident corporation is an organization subject to withholding at source of dividend payments, but is not actual owner of stock, such record owner may make disclosure of actual ownership, in which case said domestic or resident corporation will be governed by the established facts. (T. D. 2690; art. 32.)

If record owner does not exercise right to disclose actual ownership for purpose of claiming exemption from having tax withheld at source, debtor corporations and their withholding agents in United States will be held liable on their stock records of ownership for tax required to be withheld by section 13 (f) of the act of September 8, 1916. (T. D. 2690; art. 32.)

In absence of disclosure of actual ownership filed with debtor corporations or their withholding agents, normal tax required to be withheld in accordance with stock records of ownership can only be released to record owner not liable for tax upon proper showing to Commissioner of record and actual ownership names and post-office addresses of debtor corporations and withholding agents, and amounts withheld. (T. D. 2690; art. 32.)

Nonresident aliens not required to make return of any of the classes of income specified by section 4 of the act of September 8, 1916, as amended, and received by them from sources within the United States. (T. D. 2690; art. 32.)

The record owner is held to be "the proper representative having the receipt, custody, control or disposal" of income of the actual owner, and is required to file return for or on behalf of the actual owner for purpose of assessment of tax not withheld at the source; when return is not required to be filed by or on behalf of actual owner, showing may be made upon certification of the record owner. (T. D. 2690; art. 32.)

Nonresident alien shall make full and accurate return of all net income received from sources within United States, regardless of amount, unless tax on such income has been fully paid at source. (T. D. 2690; art. 32.)

—— **Notice.**

In cases of refusal or neglect to make return and in cases of intentional or fraudulent return, Commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law, or require necessary corrections to be made, and

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Returns—Continued.

—— **Notice—Continued.**

assessment thereon shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

The notice from the collector, provided for in subsection 3176 of section 16 of the act of September 8, 1916, is the note or memorandum prescribed by subsection 3173 of said section. (T. D. 2690; art. 54.)

—— **Oil and gas properties.**

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

—— **Partners.**

Income of partnership accrues to individual partner at time his distributive interest is determined; returns by individuals should include incomes accruing from business of partnerships for business years of partnerships as may have been definitely ascertained by means of book balance, whether distributed or not; partners must make returns of income as individuals, for calendar year, and should include their interest in profits ascertained at end of business year falling within calendar year for which individual return is being rendered. (T. D. 2690; art. 4.)

Where result of partnership operation is net loss, loss will be divisible between partners in same proportion as net income would have been divisible, and may be used by individual partners in their returns of income. (T. D. 2690; art. 30.)

Individuals entitled to share in partnership net income required to include in their returns their respective shares of such net income, whether distributed or not; partners will exclude such part of net income as may have been received by partnership from sources exempt from tax under section 4 of the act of September 8, 1916, as amended, and which shall have been included by partnership in its statement of net income distributed to partners; partners shall include proportionate share of partnership net income derived from dividends. (T. D. 2690; art. 30.)

Partnership shall have privilege of fixing and making return on basis of fiscal year; if fiscal year (other than calendar year) ends in a calendar year for which there is a rate of tax different from the rate for preceding calendar year, each partner's share of partnership profits shall be divided in proportion of different calendar years composing said fiscal year, and rate of tax for respective calendar years shall apply to that part of such profits as thus falls within said calendar years; partnership may designate last day of any month as close of fiscal year, and in each case where fiscal year differs from calendar year partnership shall, not less than 30 days prior to March 1, give notice in writing to collector that day thus designated is closing day of fiscal year. (T. D. 2690; art. 31.)

Income received by members out of earnings of limited partnerships will be treated in their personal returns in same manner as if it were dividends on stock of corporations and will be subject to additional or surtaxes in hands of recipient. (T. D. 2690; art. 62.)

—— **Penalties—Delay in filing.**

When all income tax to which income of nonresident alien is subject is not withheld at source, return will be required to be filed by or on behalf of said alien, and penalty for failure to make return in time will attach. (T. D. 2690; art. 13.)

In cases of intentional or fraudulent return, Commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law, or require necessary corrections to be made, and assessment thereon shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

If return is made and placed in the United States mail, properly addressed, and postage paid, in ample time, in due course of mail, to reach office of collector or deputy collector, on or before last due date, no penalty will attach should return not be actually received by such officer until subsequent to that date. (T. D. 2690; art. 52.)

Where limitation of statute as to assessment has run, and written waiver of exemption from assessment is given by taxpayer, the ad valorem penalties of 50 per cent, addition to tax, is not to be assessed for delinquency in filing return. (T. D. 2690; art. 52.)

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Returns—Continued.

—— Penalties—Delay in filing—Continued.

Penalties for failure to make return within time fixed by law are 50 per cent of the amount of tax shown by correct return, besides the specific penalty of not less than $20 nor more than $1,000; specific penalties attach to person, and in case of death of such person are nonenforceable; ad valorem penalties attach to income and are to to be enforced regardless of the death of the owner of the income by which penalty is measured. (T. D. 2690; art. 52.)

—— —— Fraud.

In cases of refusal or neglect to make return Commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law, or require necessary corrections to be made and assessment thereon shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

Penalties for false or fraudulent return or statement, wilfully made with intent to defeat or evade assessment of tax are 100 per cent to be added to amount of tax shown by correct return, and the specific penalty of a fine as for misdemeanor, not exceeding one year, or both, in discretion of court, with costs of prosecution. (T. D. 2690; art. 53.)

Any person required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with the intent to defeat or evade the assessment required by Parts II and III of Title I of the act of September 8, 1916, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution. (T. D. 2690; art. 232.)

—— Persons required to make.

In case of citizens and resident aliens returns are required of all unmarried persons of lawful age having net income of $1,000 or over; of all married persons having net income of $2,000 or over; heads of families who are married having net income of $2,000 or over; heads of families who are unmarried, having net income of $1,000 or over, though basic exemption which may be claimed in return of income will be $2,000. (T. D. 2690; art. 26.)

—— Place of filing.

Returns must be filed with collector for district in which person has legal residence or principal place of business, or, in absence of same in the United States, then with collector of internal revenue at Baltimore, Md.; returns shall be in such form as shall be prescribed by Commissioner of Internal Revenue with approval of Secretary of Treasury. (T. D. 2690; art. 26.)

Persons in military or naval service of United States may file their returns with collector of district in which they have a legal residence or with collector at Baltimore, Md. (T. D. 2690; art. 26.)

—— Receivers.

Receivers who as officers of court stand in the stead of some principal must account for income tax as principal would have been required to account. (T. D. 2690; art. 26.)

—— Stock dividends.

Stock dividends declared from surplus created from revaluation of capital assets or value placed upon trade-mark, good will, etc., do not represent distribution of earnings or profits subject to tax in hands of shareholder; entire proceeds derived by shareholder from sale of such stock is income subject to both normal and additional tax and must be accounted for in shareholder's return for year in which sold. (T. D. 2690; art. 4.)

—— Time.

Provisions of T. D. 2581 made applicable to returns by American citizens residing or traveling abroad, including persons in military or naval establishments, stationed or on duty beyond limits of the States and Territories of Hawaii and Alaska; any such person filing return after April 1, 1918, but on or before October 1, 1918, embodying therein or attaching thereto written statement showing that he comes within classes designated by T. D. 2581, need not file supporting affidavit required by that decision. (T. D. 2672; Mar. 16, 1918.)

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Returns—Continued.

—— **Time—Continued.**

When all income tax to which income of nonresident alien is subject is not withheld at source, return will be required to be filed by or on behalf of said alien and penalty for failure to make return in time will attach. (T. D. 2690; art. 13.)

Return must be filed at close of calendar year and on or before March 1, annually. (T. D. 2690; art. 21.)

Where husband and wife file separate returns, one being filed in time and other delinquent, such returns are not supplemental of each other and delinquency must be answered for by one in connection with whose return it occurred. (T. D. 2690; art. 26.)

In cases of refusal or neglect to make return, Commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law or require necessary corrections to be made, and assessment thereon shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

Penalties for failure to make return within time fixed by law are 50 per cent of the amount of tax shown by correct return, besides the specific penalty of not less than $20 nor more than $1,000; specific penalties attach to person, and in case of death of such person are nonenforceable; ad valorem penalties attach to income and are to be enforced regardless of the death of the owner of the income by which penalty is measured. (T. D. 2690; art. 52.)

Where limitation of statute as to assessment has run and written waiver of exemption from assessment is given by taxpayer, the ad valorem penalties of 50 per cent addition to tax is not to be assessed for delinquency in filing return. (T. D. 2690; art. 52.)

If return is made and placed in the United States mail, properly addressed and postage paid, in ample time in due course of mail to reach office of deputy collector on or before last due date, no penalty will attach should return not be actually received by such officer until subsequent to that date. (T. D. 2690; art. 52.)

—— —— **Extension.**

Time for making returns pursuant to requirements of Titles I and II of the act of October 3, 1917, in case of corporations whose income tax returns have been made, or shall be made upon basis of fiscal year ending during calendar year 1917, extended to January 1, 1918. (T. D. 2561; Oct. 16, 1917.) Time extended to February 1, 1918. Extension applies also to returns of annual net income due subsequent to October 16, 1917, but prior to February 1, 1918. (T. D. 2615; Dec. 13, 1917.) Time extended to March 1, 1918. Extension also applies to returns of annual net income due subsequent to October 16, 1917, but prior to March 1, 1918. (T. D. 2633; Jan. 22, 1918.) Time extended to April 1, 1918, and extension made applicable to returns whether made on basis of calendar year or of fiscal year ending during year 1917. (T. D. 2650; Feb. 9, 1918.)

Extension of time granted for such period as may be necessary, not exceeding 90 days after proclamation by President of end of war with Germany, for filing returns of income for 1917 and subsequent years, under sections 6 (c), 8 (b) (c), and 13 (b) (c), of act of September 8, 1916, as amended, and under war income-tax act of October 3, 1917, by or for enemies or allies of enemies, as defined by section 2 of the trading with the enemy act of October 6, 1917, not holding license granted under such act; return of information required; duties of persons controlling money or property for any such enemy or ally of enemy. (T. D. 2673; Mar. 18, 1918.)

Commissioner of Internal Revenue may, in his discretion, upon application therefor and upon satisfactory showing, grant reasonable extension of time for filing returns by persons residing or traveling abroad who are unable to file on or before March 1 of each year; in case of sickness of citizens and residents, extension not exceeding 30 days may be granted. (T. D. 2690; art. 22.)

—— —— **Reasonable cause for delay.**

Delinquent returns must be accompanied by an affirmative showing of fact alleged as reasonable cause for excuse from 50 per cent penalty; Commissioner of Internal Revenue will pass upon validity of the showing which must be in the form of an affidavit, under oath, and should be attached to the return; the penalty of 50 per cent "addition to tax" will be asserted in all cases where the showing made is not approved by the Commissioner. (T. D. 2690; art. 54.)

The words "reasonable cause," as used in section 3176, Revised Statutes, as amended by the act of September 8, 1916, providing that if after delinquency has

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Returns—Continued.

— - **Time**—Continued.

—— —— **Reasonable cause for delay**—Continued.

ensued and before receiving notice from collector of such delinquency and request for return, delinquent shall have filed his return, accompanied with showing that failure to file in time was due to reasonable cause, no such addition shall be made to the tax, is held to be such a condition of fact as had the taxpayer in default exercised ordinary business care and prudence it would have been impracticable or impossible for him to have filed return on prescribed time. (T. D. 2690; art. 54.)

—— **Verification.**

All returns must be verified under oath or affirmation; persons in military or naval service of the United States may verify returns before any official of those services authorized to administer oaths for purposes of those services; returns executed abroad may be attested free of charge before United States consular officers; where foreign notary or other official having no seal shall act as attesting officer, his authority should be certified to by some judicial official or other proper officer having knowledge of appointment and official character of attesting officer. (T. D. 2690; art. 26.)

Status of tax.

Tax due on income has status of a debt due to the United States; persons receiving property charged with such indebtedness must answer for the debt. (T. D. 2690; art. 39.)

Treasury decisions—Date effective.

Treasury decisions promulgating rulings of internal revenue bureau become effective upon date of approval, unless otherwise stated therein; cases previously adjusted in contravention of law as pronounced in such decisions are subject to readustment in accordance with the decision. (T. D. 2690; art. 38.)

Withholding—Act applicable.

Until January 1, 1918, withholding was required under act of September 8, 1916, as amended, at rate of 2 per cent; on and after January 1, 1918, withholding provisions of law as to citizens and resident aliens (sec. 9 (c), act Sept. 8, 1916, as amended) extended to normal tax imposed by section 1 of the act of October 3, 1917; thereafter exemption which may be claimed by citizens and resident aliens from withholding is such as is allowable under section 3 of the act of October 3, 1917. (T. D. 2690; art. 44.)

—— **Amount.**

Withholding will at all times be limited to 2 per cent, except in case of interest on corporate bonds owned by foreign corporations having no office or place of business in the United States, in which case deduction will be at rate of 6 per cent. (T. D. 2690; art. 45.)

—— **Citizens and resident aliens.**

Withholding provisions of sections 9 (b) and (c) of the income tax law apply to normal income tax of citizens and resident aliens, only when derived from interest on bonds and mortgages, deeds of trust, or other similar obligations of corporations, associations, etc., which have a "tax-free covenant clause," regardless of amount and period of payment; on and after January 1, 1918, normal tax of 2 per cent imposed by the act of October 3, 1917, is the tax to be deducted and withheld from citizens or residents of the United States in accordance with section 9 (c). (T. D. 2690; art. 43.)

—— **Foreign items.**

See "Ownership certificates," under this subhead.

—— **Forms.**

Forms on which tax withheld from income is to be accounted for and those used when personal exemption is claimed and when no personal exemption is claimed, etc., stated. (T. D. 2690; art. 43.)

—— **Interest.**

Interest received from deposits in banks located within the United States paid to nonresident alien individuals and corporations constitutes income received from resources within the United States and is subject to withholding provisions of act of October 3, 1917. (T. D. 2623; Dec. 28, 1917. T. D. 2652; Feb. 6. 1918.)

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Withholding—Continued.

—— Nonresident aliens.

The withholding provisions of sections 9 (b) and (c) of the income tax law apply to the normal tax levied upon entire net income of nonresident aliens of a fixed or determinable annual or periodical class, as interest, rent, wages, etc., received by them from all sources within United States; tax to be deducted and withheld from individuals for 1917 and subsequent tax years is the 2 per cent normal tax imposed by the act of September 8, 1916, as amended. (T. D. 2690; art. 43.)

"Nonresident alien individual" means an individual (a) whose residence is not within the United States and (b) who is not a citizen of the United States; rules for determining residence stated. (T. D. 2794; Feb. 21, 1919.)

Aliens employed in the United States are prima facie regarded as nonresidents; if wages are paid without withholding tax, the employer should be provided with written proof of facts which overcome the presumption that such alien is a nonresident. (T. D. 2794; Feb. 21, 1919.)

It will be presumed that an alien who has established a residence in the United States continues to be a resident until he or his family evidence an intention to change residence to another country by starting to remove. (T. D. 2794; Feb. 21, 1919.)

Any alien living in United States who is not a mere transient is a resident of the United States for purposes of the income tax; whether he is a transient or not is determined by his intentions with regard to his stay; if he lives in the United States and has no definite intention as to his stay, he is a resident; mere floating intention, indefinite as to time, to return to another country, is not sufficient to constitute him a transient. (T. D. 2794; Feb. 21, 1919.)

An alien's statements as to his intention with regard to residence are not conclusive, but when unequivocal will determine the question of his intention, unless his conduct, acts, or other surrounding circumstances contradict the statements; fact that alien's family is abroad does not necessarily indicate that he is a transient rather than a resident; alien entering this country intending to make his home in foreign country as soon as he has accumulated money sufficient to provide for his journey abroad is to be considered a transient provided his expectation in this regard may reasonably be fulfilled within comparatively short time. (T. D. 2794; Feb. 21, 1919.)

—— Ownership certificates.

Where substitute certificate (Form 1059) has been used in connection with coupons from bonds which do not contain "tax-free" or "no-deduction" clause, withholding agent shall request bank or collection agency to disclose name and address of owner of bonds, and it is duty of such bank or agency to make such disclosures; if owner is citizen or resident of United States, withholding agent shall refund amount of tax deducted, and if nonresident alien, no refundment shall be made but agent shall make return thereof on or before March 1, and on or before time fixed for payment of tax shall pay amount withheld to officer of United States authorized to receive same. (T. D. 2635; Jan. 24, 1918.)

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals or foreign corporations having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

In absence of disclosure of actual ownership filed with debtor corporations or their withholding agents, normal tax required to be withheld in accordance with stock-records of ownership can only be released to record owner not liable for tax upon proper showing to commissioner of record and actual ownership, names and post-office addresses of debtor corporations and withholding agents, and amounts withheld. (T. D. 2690; art. 32.)

If record owner does not exercise right to disclose actual ownership for purpose of claiming exemption from having tax withheld at source, debtor corporations and their withholding agents in United States will be held liable on their stock records

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Withholding—Continued.

—— Ownership certificates—Continued.

of ownership for tax required to be withheld by section 13 (*f*) of the act of September 8, 1916. (T. D. 2690; art. 32.)

Collecting agents, responsible banks and bankers receiving coupons for collection with ownership certificates attached may present coupons with original certificates to debtor corporation or withholding agent for collection, or original certificates may be detached and forwarded direct to Commissioner of Internal Revenue, providing such agent shall substitute for such certificate its own certificate and shall keep complete record of each transaction showing specified data; identification of substitute certificate; substitute certificates discontinued with respect to ownership certificates presented with coupons for collection by nonresident alien individuals, corporations, etc. (T. D. 2690; art. 43.)

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 43.)

Where fiduciaries have control and custody of more than one estate or trust, and said estates and trusts have as assets bonds of corporations, etc., certificate of ownership must be executed for each estate or trust, regardless of fact that bonds are of same issue; when bonds are owned jointly by several persons, one of the owners may execute certificate in behalf of others, and indorse on back thereof their names and addresses, and proportion of ownership of each. (T. D. 2709; May 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate Form 1071, revised, shall be used for and on behalf of such owner by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificate shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that

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Withholding—Continued.

—— **Ownership certificates**—Continued.

in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

—— **Refund.**

Where, upon filing return, it appears that nonresident alien is not liable for tax, but, nevertheless, tax shall have been withheld at source in order to obtain refund on basis of showing made by return, there shall be attached to the return a statement showing accurately the amounts of tax withheld, with names and post-office addresses of all withholding agents. (T. D. 2690; art. 32.)

—— **Release.**

Any income withheld from citizen or resident alien in 1917 prior to October 3, 1917, except in case covered by section 9 (c) of the act of September 8, 1916, as amended, shall be released by withholding agent and paid over to individual from whom it was withheld or his proper legal representative; income upon which such tax was so deducted and released required to be included in return, if any, of such individual for the purpse of assessment and collection of income tax. (T. D. 2690; art. 47.)

—— **Return.**

Return is to be made for tax withheld in manner and on form prescribed by Commissioner of Internal Revenue, with approval of Secretary of Treasury, such return to be made after February 1, and on or before March 1, annually; return shall show name and address of withholding agent, character of income, name and address of recipient or his agent, amount of income, exemption claimed, and amount of tax and 2 per cent withheld thereon. (T. D. 2690; art. 46.)

—— **Tax not paid at source.**

Form 1001, revised, shall be used when personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of United States, and when presenting coupons from bonds not containing tax-free covenant; by domestic partnerships, corporations, or associations; by nonresident alien partnerships; and by foreign corporations having office or place of business in United States, whether or not such bonds contain tax-free covenant. In case citizen or resident individual receives interest on bond containing tax-free covenant in excess of amount of personal exemption which individual may claim, any such excess must be reported on Form 1000, revised. (T. D. 2690; art. 43.)

—— **Tax paid at source.**

Form 1000, revised, shall be used when no personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of the United States; by nonresident alien individuals, foreign corporations having no office or place of business in the United States, whether or not such bonds contain a tax-free covenant; and in case where coupons are received not accompanied by certificates of ownership. First bank receiving coupons not accompanied by ownership certificates will make certificate, crossing out "owner" and inserting "payee," and will enter amount of interest on line 4. (T. D. 2690; art. 43.)

INDEMNITY BONDS.

See "Bonds."

INDICTMENT.

Narcotic law, violation of.

Indictment charging conspiracy to violate section 2 of the act of December 17, 1914, need not negative exceptions found in such statute; demurrer to indictment overruled in case of United States *v.* O'Hara. (T. D. 2392; Nov. 6, 1916.)

Illegal dispensing of narcotics may be made separate count in indictment as to each addict involved, and evidence may be admitted tending to prove sales by physician to persons other than those mentioned in the indictment. (T. D. 2887; July 12, 1919. Ct. Dec.)

INDUSTRIAL DISTILLERIES.

See "Distilled Spirits."

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INFANTS.

Admissions.

Children under 12 years of age when admitted free are not taxable under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Tax imposed by section 700 of the act of October 3, 1917, on the admission of children under 12 years of age, must be collected in all cases at the full rate of 1 cent for each 10 cents or fraction thereof, except where distinctive tickets are issued for children under 12 years or tickets for their use are indelibly stamped to show that they are good only for the admission of children under 12 years, or where, in absence of tickets, tax is paid at time of admission of children under 12 years; children under 12 years of age when admitted free are not taxable. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Deduction of allowances.

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not allowable deductions in return of income, nor are they income to the children. (T. D. 2690; art. 8.)

—— Exemptions.

Exemption of $200 for each dependent child provided by section 7 of act of September 8, 1916, as amended, is given in respect of income tax, and is, therefore, applicable under both the act of September 8, 1916, as amended, and the act of October 3, 1917, under same conditions of fact. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed guardian, and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax, in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

INFORMATION AT SOURCE.

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

INHERITANCE TAXES.

Estate tax—Deductions.

Amounts paid to States on account of inheritance, succession, or legacy taxes, are not "such other charges against the estate as are allowed by the laws of the jurisdiction," and are not deductible in arriving at amount of Federal estate tax. (T. D. 2524; Sept. 10, 1917.)

Inheritance tax imposed by laws of Pennsylvania is estate tax assessed against transfer of estate as a whole and not legacy tax imposed on transfer of any particular interest; it is, therefore, a charge against the estate of a decedent in that jurisdiction within the meaning of section 203 of the act of September 8, 1916, and is deductible from gross estate in computing value of net estate subject to tax. (T. D. 3027; June 2, 1920. Ct. Dec.)

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Income taxes—Deduction.

Tax imposed by laws of New York upon transfer of property by will or under interstate laws is not deductible in ascertaining net income of legatee or distributee under act of October 3, 1913; it is not a tax within the meaning of paragraph B, Section II, permitting deduction of all national, State, county, school, and municipal taxes paid during the year. (T. D. 2933; Oct. 9, 1919. T. D. 3050; July 27, 1920. Ct. Decs.)

Tax upon right to receive an interest in the estate of a decedent is not a charge either against the person receiving the interest or the property or right accruing to him; the legatee or distributee merely receives the balance due after payment of the tax—he does not receive the entire interest and then pay the tax—and he is consequently not entitled to deduct the amount as a tax paid by him. (T. D. 2933; Oct. 9, 1919. T. D. 3050; July 27, 1920. Ct. Decs.)

Payment—Receipt of Liberty bonds.

Circular 132, issued under date of January 30, 1919, with reference to receipt of Liberty bonds in payment of estate or inheritance taxes, published. (T. D. 2802; Mar. 12, 1919. See also T. Ds. 2878, 2898, 2904, 2905.)

Refund.

A tax demanded and paid under section 29 of the war-revenue act of June 13, 1898, on a contingent beneficial interest not vested prior to July 1, 1902, contrary to the refunding act of June 27, 1902, is a tax "erroneously collected" within meaning of the act of July 27, 1912, although payment was without protest or reservation, and under that act right to refund is barred if claim was not presented to the Commissioner of Internal Revenue on or before January 1, 1914. (T. D. 3007; Apr. 22, 1920. Ct. Dec.)

Remote possibility that funds turned over to legatees before July 1, 1902, by an executor might have to be returned does not prevent their being vested and taxable under the war-revenue act of 1898; for purposes of that act the interest transferred before July 1, 1902, from an estate to a trustee for ascertained persons is vested in possession no less than when it is conveyed directly to them. (T. D. 3008; Apr. 22, 1920. Ct. Dec.)

Suits to recover back.

Judgment in suit against collector to recover succession tax collected under act of June 13, 1898, for part of claim only, certain interests involved being erroneously held to be taxable as being vested in possession or enjoyment before July 1, 1902, which judgment was satisfied by the United States, is no bar to suit against United States in Court of Claims to recover unpaid residue. (T. D. 2885; July 10, 1919. Ct. Dec.)

Claim for refund filed in August, 1903, with Commissioner of Internal Revenue as prerequisite to suit against collector to recover succession tax collected under act of June 13, 1898, is sufficient to meet requirements of act of July 27, 1912; effect of claim was not extinguished by judgment in suit and it is not necessary that claim be filed under the 1912 act. (T. D. 2885; July 10, 1919. Ct. Dec.)

Where application was made on September 7, 1916, to the Secretary of the Treasury for repayment of tax collected under act of June 13, 1898, and claim was rejected on October 30, 1916, suit brought in Court of Claims on January 23, 1917, under the act of July 27, 1912, was within the six-year period allowed by section 1069, Revised Statutes. (T. D. 2885; July 10, 1919. Ct. Dec.)

The bar of section 3226, Revised Statutes, making appeal to Commissioner and decision by him a necessary condition precedent to action to recover tax illegally collected, and of section 3228, Revised Statutes, fixing two years as time within which to bring such an action, is removed as to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of the act of June 27, 1902, and section 2 of the act of July 27, 1912, and presented to Commissioner claim for refund of the tax. (T. D. 2886; July 10, 1919. Ct. Dec.)

Fact that tax was voluntarily paid—that is, without protest—is no impediment to the application of act of July 27, 1912. (T. D. 2886; July 10, 1919. Ct. Dec.)

Claim for refund filed by the attorney for trust company, trustee under will, and claim filed for and in behalf of administrator de bonis non of decedent, can not be ascribed to cestui que trust on whose behalf the original executrix paid the tax without protest, and hence did not satisfy provision of act of July 27, 1912,

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Suits to recover back—Continued.

that repayment shall be made to "such claimants as have presented or shall hereafter so present their claims." (T. D. 2886; July 10, 1919. Ct. Dec.)

Inutility of filing claim by the cestui que trust, based on fact that she knew precise facts of demands that had been made, and that she knew also that claims of the class to which hers belonged had been uniformly rejected, can not be urged as an excuse for failure to file another claim in her own name. (T. D. 2886; July 10, 1919. Ct. Dec.)

INITIATION FEES.

Taxability.

See "Dues."

INSANE PERSONS.

Income taxes—Collection and payment.

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

—— Exemptions.

Fiduciaries acting for minors or incompetent persons are permitted to take personal exemption as to income derived from property of which they have charge in favor of each ward or beneficiary. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interest of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Committee of property of incompetent person held to be fiduciary for purpose of income tax and required to make return on Form 1040, revised, for incompetent, whenever amount of income is sufficient to require same. (T. D. 2690; art. 29.)

INSOLVENCY.

See "Bankruptcy."

Income taxes—Abatement.

Under section 3218, Revised Statutes, collectors are entitled to credit for tax assessed against parties who may have absconded or become insolvent prior to day when tax ought to have been collected, provided due diligence was used by the collector, but, as obligation to pay still remains upon the parties assessed, collectors required to keep record (No. 23) of all taxes thus credited and of person from whom they are due, and to enforce payment whenever it is in their power so to do; if tax reported as uncollectible on account of insolvency or absconding of party is paid after credit has been given for it, it should be returned upon Form 58. (T. D. 2690; arts. 247, 248.)

—— Collection and payment.

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

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Income taxes—Continued.

—— **Returns.**

Corporation going into liquidation during any tax period may, at time of such liquidation, prepare final return covering income received or accrued to it during fractional part of year during which it was engaged in business, and immediately file same with collector of district in which corporation has principal place of business; before distributing assets dissolving corporation should reserve funds sufficient to pay any income tax assessable against it; otherwise tax may be collected by suit against stockholders. (T. D. 2690; art. 205.)

INSPECTION.

Beverages—Books of manufacturers.

Books of every person liable to tax imposed by section 313 of the act of October 3, 1917, shall be open at all times for inspection by examining internal revenue officers. (T. D. 2719; Art. XXXIV.)

Excise taxes—Books of persons liable.

Where a laboratory simply does the mechanical work of producing the positive print, charging the owner of the negative for materials used and services rendered, such laboratory will not be regarded as the manufacturer of the film; the tax is upon the sale or lease by the owner of the film; the laboratory, however, shall keep a record of all such films produced with name of owner and length of film, such record to be available for examination by internal revenue officers, and shall furnish monthly to collector of district in which it is located a signed statement, giving such information. (T. D. 2719; Art. XII.)

Books of every person liable to tax shall be open at all times for inspection by examining internal revenue officers. (T. D. 2719; Art. XXVI.)

Income tax returns.

When assessments shall have been made, returns shall be filed in office of commissioner and shall constitute public records, subject to inspection upon order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President; copies of returns on file in Commissioner's office may not be sent to any person except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear the impress of the seal. (T. D. 2690; art. 226.)

When the head of a bureau or office in the Treasury Department, not a part of the Internal Revenue Bureau, desires to inspect return in connection with some matter officially before him, other than an income, profits tax or corporation excise tax matter, the inspection may, in the discretion of the Secretary, be permitted upon written application to him by the head of such bureau or office, showing in detail why inspection is desired; reason submitted for permission to inspect return shall be considered by the Secretary and decision reached by him whether the reasons are sufficient to permit such inspection. (T. D. 2961; Jan 7, 1920.)

Return of partnership shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; and by any individual (or his duly constituted attorney in fact or legal representative) who was member of such partnership during any part of time covered by the return, upon satisfactory evidence of such fact being furnished. (T. D. 2961; Jan. 7, 1920.)

When it becomes necessary for the department to furnish returns or copies thereof for use in legal proceedings, inspection of such returns or copies that necessarily results from such use is permitted. (T. D. 2961; Jan. 7, 1920.)

Written statement filed with Commissioner designed to be supplemental to and to become part of tax returns is subject to same rules and regulations as to inspection as are tax returns themselves. (T. D. 2961; Jan. 7, 1920.)

Except as to returns or copies thereof for use in legal proceedings, returns may be inspected only in the office of Commissioner of Internal Revenue, Washington, D. C. (T. D. 2961; Jan. 7, 1920.)

Return of corporation shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; upon satisfactory evidence of identity and official position, by the president, vice president, secretary, or treasurer of such corpora-

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Income tax returns—Continued.

tion, or, if none, its principal officer; and by a stockholder of such corporation under certain circumstances. (T. D. 2961; Jan. 7, 1920.)

A person who, under the regulations, is permitted to inspect a return may make and take copy thereof or memorandum of data contained therein. (T. D. 2961; Jan. 7, 1920.)

Stockholder of record owning 1 per cent or more of the stock of the outstanding stock of a corporation may be permitted to inspect its return; permission will only be granted upon application in writing to Commissioner accompanied by affidavit showing certain facts; this privilege of inspection is personal and will be granted only to the stockholder. (T. D. 2961; Jan. 7, 1920.)

When head of executive department (other than Treasury Department) or any other United States Government establishment, desires inspection of return in connection with some matter officially before him, the inspection may, in discretion of Secretary of the Treasury, be permitted upon written application to him by head of such department or other Government establishment, such application to be signed by such head and to show why inspection is desired, name and address of taxpayer who made return, and name and official designation of one it is desired shall inspect the return; the reason submitted for permission to inspect the return shall be considered by the Secretary and decision reached by him whether reasons are sufficient to permit inspection. (T. D. 2961; Jan. 7, 1920.)

Except as otherwise provided, Commissioner may, in his discretion, upon written application setting forth fully reasons for request, grant permission for inspection of returns; application will be considered by Commissioner and decision reached by him whether applicant has met conditions imposed by regulations and whether reasons advanced for permission to inspect are sufficient to permit the inspection; such written application is not required of officers and employees of the Treasury Department whose official duties require inspection of a return, or of the Solicitor of Internal Revenue. (T. D. 2961; Jan. 7, 1920.)

Return of individual is open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; by person who made return, or by his duly constituted attorney in fact; by administrator, executor, or trustee of taxpayer's estate, or by duly constituted attorney in fact of such administrator, executor, or trustee, where maker of return has died; and, in discretion of Commissioner, by one of the heirs at law or next of kin of such deceased person upon showing that he has a material interest which will be affected by information contained in return. (T. D. 2961; Jan. 7, 1920.)

Joint return of husband and wife is open to inspection by officers and employees of Treasury Department whose official duties require such inspection, and by the Solicitor of Internal Revenue; and by either spouse for whom return was made or his or her duly constituted attorney, upon satisfactory evidence of such relationship being furnished. (T. D. 2961; Jan. 7, 1920.)

Proper officers of State imposing income tax are entitled as of right upon request of its governor to have access to income and profits tax returns of corporation, etc., or to abstract thereof, showing its name and income; proper officers in this connection are only those officers of the State charged with enforcement of the State income tax law and who are to use the information gained by the access only in connection with such enforcement; contents of request or application of governor, which must be in writing, signed by him under the seal of his State, and be addressed either to the Secretary of the Treasury or to the Commissioner of Internal Revenue, stated; access shall be given only in the office of the Commissioner, and the officers designated by the governor will not be permitted to name another person to examine the returns or abstracts for them, and the officers designated will be given access only to returns of those corporations, etc., organized and doing business in their State. (T. D. 2962; Jan. 7, 1920.)

INSTALLMENTS.

Advance payments of taxes.

Instructions with reference to time for making advance payments in installments or in whole, of income and excess profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

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Excise tax.

In case of conditional sale, where title is reserved until payment of purchase price in full, excise tax imposed by act of October 3, 1917, attaches upon such payment or when title passes if before completion of payments. (T. D. 2719; Art. IV.

Income taxes—Gross income.

Where corporation sells property on installment plan, title passing at time of sale, gain to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

Corporation selling merchandise on installment basis, title passing to vendee at time of sale, will treat such contracts as accounts receivable and as sales during the year at their face value, accounting for as income the difference between the cost and sales price. (T. D. 2690; art. 120.)

In all cases where inventories are taken for purpose of ascertaining gain or loss resulting from business of the year, inventories must be taken in accordance with instructions to be included in special regulations furnished upon application to collector of internal revenue. (T. D. 2690; art. 120.)

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918. Affirmed, T. D. 2744; July 11, 1918.)

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if for any reason vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

—— Net income.

Where buyer of property of corporation sold on installment plan, title passing at time of sale, forfeits his contract and fails to meet any of the payments contracted to be made, selling corporation may deduct from its gross income as a loss such proportion of defaulted payments as was previously returned as gross income. (T. D. 2690; art. 116.)

There should be reported as payments on policies by insurance companies, other than mutuals, but including mutual life and mutual marine, all death, disability, or other policy claims (other than dividends) paid within year, including fire, accident, and liability losses, matured endowments, and annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. (T. D. 2690; art. 240.)

INSURANCE.

Age of insured.

Tax provided for by section 504 of the act of October 3, 1917, is imposed on insurance without regard to age of the insured. (T. D. 2588; Nov. 21, 1917.)

Annuity contracts.

An annuity contract is not taxable as a policy of life insurance, since it does not insure a life. (T. D. 2785; Jan. 23, 1919.)

Assignment of policy.

No stamp tax is imposed upon power of attorney in transfer by assignment, absolute or as collateral security, of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in assignee. (T. D. 2599; Dec. 3, 1917.)

Brokers.

Brokers who place risks for clients with insurance companies are not subject to tax under section 504 of act of October 3, 1917, as tax is imposed upon companies issuing the insurance. (T. D. 2588; Nov. 21, 1917.)

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Capital stock tax on companies.

Farmers' or other mutual hail, cyclone, or fire insurance company of purely local character, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

The amount of capital invested in transaction of business in United States by foreign insurance companies is the amount of "surplus due policy holders" as shown by convention form of report to State insurance departments; foreign companies are permitted to state amounts of surplus due policy holders as shown by report for last fiscal year, ending December 31, 1916, the only deduction allowed being amount of deposits actually required by States in which company is transacting business. (T. D. 2503; June 25, 1917.)

Domestic insurance companies are not permitted to deduct reserves or deposits maintained or held in the United States for the protection of, or payment to, or apportionment among, policyholders, as such reserves and deposits are reflected in the fair value of the stock as computed under Cases I, II, and III, Form 707. (T. D. 2503; June 25, 1917.)

Tax imposed by act September 8, 1916, applies to insurance companies organized under statute or deriving from that source some quality or benefit not existing at common law, irrespective of whether or not they are organized for profit or have capital stock represented by shares; mutual and participating plan companies are included, and mutual protective association organized under statute, whose only source of revenue is assessments paid by members and whose net income for each year is paid into reserve fund constituting sole resource of company, aside from current assessments, for payment of losses, is insurance company within meaning of statute. (T. D. 2750, art. 3; Aug. 9, 1918.)

In ascertaining value of capital stock for purpose of tax, such deposits and reserve funds of insurance companies as they are required by law or contract to maintain or hold for protection of or payment to or apportionment among policy-holders are to be omitted; aside from such legal reserve funds the capital stock of mutual insurance companies consists of any capital or surplus or contingent reserves invested in real estate and other assets or maintained for the general use of the business. (T. D. 2750, art. 8; Aug. 9, 1918.)

Tax is payable by every corporation, joint-stock company or association, or insurance company, now or hereafter organized for profit under laws of any foreign country and engaged in business in the United States; in general, same kinds of companies and associations are included as in case of domestic corporations, except that to be taxable they must be organized under some statute or derive from that source some quality or benefit not existing at the common law; foreign corporation is engaged in business in United States if it maintains agents or an office or warehouse here, or, in case of insurance company, writes insurance policies here, or in any other way enters the United States for purpose of its business. (T. D. 2750, art. 13; Appendix B; Aug. 9, 1918.)

Tax on foreign corporation is in all cases to be computed on basis of average amount of capital invested in transaction of its business in the United States during the preceding year, except for deduction of legal reserve funds in case of insurance companies; basis of tax is accordingly different from that in case of domestic corporations, which pay tax measured by fair value of their capital stock. (T. D. 2750, art. 14; Appendix B; Aug. 9, 1918.)

Insurance companies organized under statute, engaged in business at any time during preceding year July 1, 1917, to June 30, 1918, and not specifically exempt under section 11, Title I, act September 8, 1916, must file return; mutual and participating plan insurance companies are included. (T. D. 2750, Appendix A; Aug. 9, 1918.)

Every insurance company, now or hereafter organized for profit under the laws of any foreign country and engaged in business in the United States, shall be liable to special excise tax of 50 cents for each full $1,000 (less the proportion of $99,000 as amount of capital invested in United States bears to total amount invested in transaction of business in the United States or elsewhere) of capital invested in transaction of its business in the United States, except such companies and associations as are specifically exempt under section 11, Title I, act September 8, 1916. (T. D. 2750, Appendix B; Aug. 9, 1918.)

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Casualty insurance.

Casualty insurance policies written on and after November 1, 1917, are taxable. (T. D. 2588; Nov. 21, 1917.)

Date of accrual of tax.

So far as tax imposed by section 504 of act of October 3, 1917, is concerned, issuance of policy is considered to be date when policy is delivered to insured or in any other manner becomes a valid claim and effective for insurance. (T. D. 2588; Nov. 21, 1917.)

Excess profits tax.

See "Excess Profits Tax."

Excise tax on companies.

The words "reserve funds," as used in act of August 5, 1909, have reference to the funds ordinarily held as against the contingent liability on outstanding policies. (T. D. 2501; June 18, 1917. Ct. Dec.)

According to the decision of the Supreme Court of the United States in the case of McCoach *v.* Insurance Co. of North America, decided at the October term, 1916, fire insurance companies are not required by law of Pennsylvania to hold a reserve against unpaid losses, within the meaning of the act of August 5, 1909. (T. D. 2501; June 18, 1917. Ct. Dec.)

Insurance companies owning securities taken at market value may not, under section 38 of the act of August 5, 1909, deduct from gross income as depreciation the net decrease in market value of such securities; sums due the United States are a valid offset as against amount found due taxpayer in suit against collector, though included therein are items which Commissioner did not claim to be due the United States when considering the return for assessment purposes. (T. D. 2882; July 3, 1919.)

Reserve funds required by rules and regulations of State insurance departments, promulgated in the exercise of appropriate power conferred by statute, are reserve funds "required by law" within meaning of taxing acts. (T. D. 3013; May 3, 1920. Ct. Dec.)

Premiums paid to agents of insurance company but not remitted to company during year are received by the company and should be returned as part of its gross income for year in which paid to its agents. (T. D. 3013; May 3, 1920. Ct. Dec.)

Where there has been net decrease in reserve funds required to be maintained by insurance company, so much of decrease as is released to general uses of the company and increases its free assets is income to the company. (T. D. 3013; May 3, 1920. Ct. Dec.)

Assets required to be held by insurance company to meet ordinary running expenses, such as taxes, salaries, reinsurance, and unpaid brokerage, are not reserve funds "required by law" for purpose of determining whether there has been net addition to reserve funds within the year. (T. D. 3013; May 3, 1920. Ct. Dec.)

In the case of a mutual life insurance company, transacting business on the level-premium plan, the surplus out of which dividends are paid in any year consists of the ascertained overpayments of premiums for the preceding year. Therefore surplus for the year 1909 was received prior to the time the act became effective and dividends paid out of such surplus and applied, at the option of the policyholder, to purchase paid-up additions and annuities or in partial payment of renewal premiums, were not income for the year in which they were applied. The surplus from premiums out of which the dividends for the year 1910 were declared was a part of the income for the year 1909 and formed a basis for taxation for that year. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Premiums due and deferred and interest due and accrued but not actually collected in cash within the taxable year are not income "received." (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Interest on policy loans, which by the terms of the contract was added to the principal when it became due, does not constitute income where it remains unpaid by the policyholder. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Decreases in the value of assets of an insurance company through amortization of premiums on bonds are mere book adjustments and are not deductible as an item of depreciation. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

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Excise tax on companies—Continued.

The reserve funds, the net addition to which is to be deducted from the gross income of a life insurance company in computing its net income, are those funds which are built up to mature the policy, and do not include funds reserved because of liabilities on supplementary contracts not involving life contingencies and canceled policies upon which a cash-surrender value may be demanded. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

The premium receipts of "every insurance company" by whatever name they are called are, unless specifically exempted by the terms of the taxing statutes in question, a part of such company's gross income. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Premium deposits made in advance by members of a mutual insurance company to cover estimated losses and expenses are, so long as the payment thereof constitutes the consideration for contract of insurance, insurance premiums constituting gross income of the company. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Moneys received by way of interest upon bank balances and from investment of such portion of premium deposits as are not currently required for the payment of losses and expenses are profits earned by an insurance company subject to tax. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

A corporation organized to insure its members, limited to jewelers and dealers in goods ordinarily carried in the jewelry trade, against loss or damage by fire, theft, barratry, embezzlement, and transportation, which requires each member to deposit in advance a definite sum sufficient to cover estimated losses and expenses for the ensuing year, the balance of such deposits being returned to members, is a mutual fire insurance company and subject to the taxes imposed by the act of August 5, 1909. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Fidelity insurance—Stamp tax.

Policies of fidelity insurance are subject to stamp tax on bonds imposed by subdivision 2 of Schedule A, of Title VIII, of the act of October 3, 1917, and not to the tax on insurance imposed by section 504 (c) of that act. (T. D. 2704; Apr. 23, 1918.)

Fraternal beneficiary societies—Exemption from tax.

Fraternal beneficiary society, order, or association, operating under lodge system or for exclusive benefit of members of fraternity itself, operating under lodge system and providing for payment of life, sick, accident, or other benefits to the members of such society or order or their dependents is exempt from tax on insurance. (T. D. 2588; Nov. 21, 1917.)

Guaranty insurance.

Companies insuring or guaranteeing any loss that might be occasioned by reason of accepting mortgages that can not be foreclosed or in any manner recovered upon are subject to tax under subdivision 2 of Schedule A of Title VIII, of the act of October 3, 1917, and not under paragraph (c) of section 504 of that act. (T. D. 2704; Apr. 23, 1918.)

Policies of guaranty insurance, including policies guaranteeing titles to real estate and mortgage guaranty policies, are subject to stamp tax on bonds imposed by subdivision 2 of Schedule A, of Title VIII, of the act of October 3, 1917, and not to the tax on insurance imposed by section 504 (c) of that act. (T. D. 2704; Apr. 23, 1918.)

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

Mutual fire companies—Exemption from tax.

If mutual fire companies are exempt under the income-tax law, no tax is imposed by act of October 3, 1917. (T. D. 2588; Nov. 21, 1917.)

Mutual protective associations.

Associations composed of employed or others who band themselves together for mutual protection in issuing life and casualty insurance, are subject to tax under paragraph (c) of section 504 of act of October 3, 1917, unless exempted under paragraph (d) of such section. (T. D. 2588; Nov. 21, 1917.)

Mutual tornado companies—Exemption from tax.

If mutual tornado insurance companies are exempt under the income-tax law, no tax is imposed by act of October 3, 1917. (T. D. 2588; Nov. 21, 1917.)

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Premiums as basis for computation of tax.

Tax provided for by section 504 of act of October 3, 1917, is imposed on premium charged, each separate premium collected to be regarded as a separate item for the computation of the tax and not on the gross premiums collected for any one month. (T. D. 2588; Nov. 21, 1917.)

Promissory notes—Stamp tax.

Policy loan and premium extension agreements are not promissory notes as contemplated by law so as to be liable for stamp tax. (T. D. 2599; Dec. 3, 1917.)

Reinsurance.

Tax imposed by section 504 of act of October 3, 1917, does not apply to amounts paid on policies of reinsurance; consequently, where insurance company reinsures risks of another company transaction is termed reinsurance and is not taxable; reinsurance is regarded as that insurance taken by a company which has over-insured and obtains another company to underwrite it for part of the liability (T. D. 2588; Nov. 21, 1917.)

Residence of insured.

Tax imposed by section 504 of act of October 3, 1917, accrued on insurance policies issued within United States irrespective of residence of insured. (T. D. 2588; Nov. 21, 1917.)

Returns.

Return for tax on insurance may be filed either direct from home office or by State superintendent, where such is appointed or employed, single reports, prepared by home offices, being preferred; local insurance agents not required to make returns, nor are returns showing name and address of each person to whom an indemnity is paid required; permission to be granted to take credit in subsequent month's report for any overpayment of tax for prior month. (T. D. 2588; Nov. 21, 1917.)

Sex of insured.

Tax provided for by section 504 of the act of October 3, 1917, is imposed on insurance without regard to sex of the insured. (T. D. 2588; Nov. 21, 1917.)

Stamp taxes on policies.

Policies of guaranty and fidelity insurance, including policies guaranteeing titles to real estate and mortgage guaranty policies, are subject to stamp tax on bonds and not to tax on insurance. (T. D. 2704; Apr. 23, 1918.)

Policy loan and premium extension agreements are not promissory notes as contemplated by law so as to be liable for stamp tax. (T. D. 2599; Dec. 3, 1917.)

Merely incidental profit earned by way of interest on its invested safety funds or on its bank balances does not change purely mutual character of company or indicate that its business, though thus earning a profit, is "carried on for profit," so as to require stamping of policies under act October 22, 1914. (T. D. 2743; July 2, 1918. Ct. Dec.)

Title insurance.

Policies of guaranty insurance, including policies guaranteeing titles to real estate and mortgage guaranty policies, are subject to stamp tax on bonds imposed by subdivision 2 of Schedule A, of Title VIII, of the act of October 3, 1917, and not to the tax on insurance imposed by section 504 (c) of that act. (T. D. 2704; Apr. 23, 1918.)

War risk insurance.

Tax imposed by section 504 of the act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War Risk Insurance Bureau; the act clearly contemplates that the tax shall be paid by the insurer and not by the insured; not only is it impossible in absence of express provision to contrary to infer that the United States intended to tax itself, but section 505 of the act obviously limits the application of the tax to persons, corporations, partnerships, and associations, in none of which classes is the United States included. (T. D. 2563; Oct. 23, 1917.)

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INTANGIBLE PROPERTY.

Definition.

The term "other intangible property," as used in section 207 of the act of October 3, 1917, means property of character similar to good will, trade-marks, and the other specific kinds of property enumerated in the same clause. (T. D. 2694; art. 47.)

INTEREST.

Advance payments by taxpayer.

Instructions with reference to time for making advance payments in installments or in whole, of income and excess-profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified Forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918. T. D. 2695; Apr. 11, 1918.)

Certificates of indebtedness.

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand"; schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2 to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on United States certificates of indebtedness, receivable in payment of income and excess profits taxes, on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest payable on any day from March 15 to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at par and accrued interest in payment of income and excess profits taxes when payable at or before maturity of certificates; schedules showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Unmatured coupons attached to certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid"; coupons maturing on or before date tax is due must be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

Estate tax—Corporate bonds.

Actual interest on bonds owned by decedent accrued to day of death must be returned as a portion of the gross estate. (T. D. 2483; Apr. 20, 1917.)

Excess profits taxes.

Interest paid within the year on indebtedness incurred for purchase of Liberty 4 per cent bonds may be deducted in computing net income subject to income surtaxes and excess-profits taxes; in case of corporations this is subject to limitations

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Excess profits taxes—Continued.

imposed by law on amount of indebtedness, interest on which may be deducted. (T. D. 2541; Oct. 20, 1917.)

In computing net income partnership will be allowed to deduct amounts paid during year to individual partner as interest upon any bona fide loan, but no deduction for so-called interest upon capital will be recognized. (T. D. 2613; Dec. 20, 1917.)

Excise taxes.

The case of Altheimer and Rawlings Investment Co. *v.* Allen holds that a corporation which did a brokerage business and bought securities for customers who paid only part of the price, paying interest on balances, corporation also paying for securities purchased only part of the price and paying interest on balances, including in return of gross income difference between interest received and interest paid, made incorrect return; interest received by corporation from its customers should be included in gross income and interest paid by the corporation on said purchases is allowable as interest payable on its bonded or other indebtedness; in determining net income interest can be deducted only to an amount not exceeding the paid-up capital stock outstanding at close of the year. (T. D. 2441; Feb. 8, 1917. T. D. 2686; Apr. 1, 1918. Ct. Decs.)

According to the case of Boston Terminal Co. *v.* Gill, decided by the Circuit Court of Appeals on October 25, 1917, interest on bonds or other indebtedness is an allowable deduction from gross income only to the amount paid upon bonded or other indebtedness not exceeding the corporation's paid-up capital stock. (T. D. 2671; Mar. 11, 1918. Ct. Dec.)

Sale of stock of another corporation resulted in gain or profit to extent of difference between buying and selling prices, there being no merit in contention that interest should be added to purchase price in order to ascertain its cost, and so much of profits as may be deemed to have accrued subsequent to December 31, 1908, must be treated as part of gross income. (T. D. 2724; June 4, 1918. Ct. Dec.)

In ascertaining net income of a corporation under section 38 of the act of August 5, 1909, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

Interest paid by corporation on sum representing premiums received from sale of its stock can not be deducted in ascertaining net income subject to tax under section 38 of the act of August 5, 1909. (T. D. 2880; July 3, 1919.)

Where corporation sold bonds at discount during 1906, 1907, and 1908, no deduction from gross income for years 1909, 1910, and 1911, of sums set aside by corporation to pay such discount at maturity of bonds is permitted. (T. D. 2944; Nov. 8, 1919. Ct. Dec.)

Indebtedness upon which interest may be taken as a deduction under the act of August 5, 1909, can not be greater than par value of capital stock paid up and outstanding; in computing paid-up capital stock, a surplus created by paying a premium on capital stock subscribed for can not be added in determining indebtedness upon which interest may be deducted. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

Statement of classes of claims for credit of sales taxes or penalties and interest which may be made by collectors on subsequent return where claim for refund or abatement has not been filed by individual taxpayer. (T. D. 3016; May 3, 1920.)

Claims for refund or abatement of sales taxes or penalties and interest other than those specified in this Treasury Decision must be made by individual taxpayer on Form 46 or 47, respectively, except in specific instances where collector may be given authority by the Bureau to use Form 751 or blanket Form 47. (T. D. 3016; May 3, 1920.)

Interest which accrued prior to 1909 and was paid in 1911 was not income within the act of August 5, 1909. (T. D. 3048; July 26, 1920.)

Moneys received by way of interest upon bank balances and from investment of such portion of premium deposits as are not currently required for the payment of losses and expenses are profits earned by an insurance company subject to tax. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

Premiums due and deferred and interest due and accrued but not actually collected in cash within the taxable year are not income "received." (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

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Excise taxes—Continued.

Interest on policy loans, which by the terms of the contract was added to the principal when it became due, does not constitute income where it remains unpaid by the policyholder. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

Income taxes—Exemptions.

Interest on State, municipal and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; art. 4.)

Interest on obligations of a State or any political subdivision thereof, or on obligations of the United States (but, in case of obligations issued after Sept. 1, 1917, only if and to extent provided in act authorizing issue thereof), or its possessions or on securities issued under provisions of Federal farm loan act of July 17, 1916, shall not be included as income. (T. D. 2690; art. 5.)

Section 1200 of the act of October 3, 1917, so amends section 4 of the act of September 8, 1916, as to exempt interest on obligations of United States issued after September 1, 1917, only if and to extent provided in act authorizing their issue; income from bonds and certificates issued under the act of September 24, 1917, is exempt from war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

Gross income from sources within United States, as applied to foreign corporations, includes interest received on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise. (T. D. 2690; art. 89.)

Interest recived on all United States bonds and certificates exempt from normal income tax need not be included in gross income in return made for purpose of the 2 per cent tax or the 4 per cent tax, but interest on bonds and certificates issued under the act of September 24, 1917, in excess of interest on $5,000 aggregate principal amount of such bonds and certificates must be included in net income upon which war excess-profits tax is computed. (T. D. 2690; art. 100.)

All interest received on obligations of United States or its possessions or on obligations of a State, or any political subdivisior thereof, should be eliminated in ascertaining gross income; accrued interest on bonds purchased must not be iucluded in amount eliminated from gross income; in case of obligations of United States issued after September 1, 1917, income therefrom is exempt from tax only to extent provided in the act authorizing their issue, and income from such obligations received by insurance companies is exempt from 2 per cent and 4 per cent tax. (T. D. 2690; art. 239.)

Interest upon obligations of State or any political suddivision thereof is exempt; obligations issued for public purpose by or on behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

When income as such is taxable to beneficiaries, as in case, under present income tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries each beneficiary is regarded as owner of proportionate part of bonds held in trust, and subscription by trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and entitles him to collateral exemption of interest on bonds of previous issues, whether owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust and the trust is entitled to exemption on account of such ownership; in such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the original subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to individual partners, as under present income tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such

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Income taxes—Exemptions—Continued.

ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess profits tax law, partnership is treated as owner of Liberty loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income, such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

In determining amount of net income of taxable year "remaining undistributed" six months after its close, and not "invested and employed in the business," there may in gneral be subtracted the amount of any interest paid by corporation but not allowed to be deducted for income tax purposes. (T. D. 2763; Oct. 21, 1918.)

Corporation, and not stockholders, is regarded as owner of Liberty loan bonds held by a corporation and entitled to exemption on account of such ownership; when bonds of Fourth Liberty Loan are subscribed for by corporation it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762, Oct. 18, 1918.)

—— Gross income.

Interest accrued to time of purchase of bonds (advanced by purchaser) is not to be accounted for as income by purchaser; only amount of interest assignable to portion of interest paid subsequent to purchase has status of income, and amount of accrued interest so advanced by purchaser is taxable income to be accounted for in return of vendor; coupons from bonds for interest thereon, exchanged for other bonds, are equivalent of payment of interest coupons and purchase of new bonds with cash. (T. D. 2690; art. 4.)

Wherever income of individual is from tax-exempt bonds, and amount of income other than that from tax-exempt securities is less than amount of income for which return is required, no return is to be made; interest from securities exempt under section 4 of the law is not to be included in returns. (T. D. 2690; art. 26.)

Interest received on bonds held, whether guaranteed to be tax-free or not, must be included in income and must be accounted for in return of annual net income; matter of complying with covenant of bond is matter to be adjusted between debtor corporation and the bondholder. (T. D. 2690; art. 122.)

Moneys received by way of interest upon bank balances and from investment of such portion of premium deposits as are not currently required for the payment of losses and expenses are profits earned by an insurance company subject to tax. (T. D. 3078; Oct. 13, 1920. Ct. Dec.)

—— Information at source.

Interest accrued on bank deposits before it has been passed to the credit of the individual depositor need not be reported. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying interest of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments authorized and required to render due and accurate return, setting forth the amount of such interest and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Requirements for information at source do not apply to payment of interest on obligations of the United States. (T. D. 2690; art. 37.)

Owners of bonds of domestic and resident corporations shall, when presenting interest coupons for payment, file certificate of ownership for each issue of bonds showing name and address of debtor corporation, name and address of owner of bonds, whether payee is married or head of a family, and amount of interest. (T. D. 2690; art. 43.)

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Income taxes—Continued.

—— Information at source—Continued.

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

The term "foreign item," as used in article 35 of Regulations No. 33, Revised, means any dividend upon stock of foreign corporation or any item of interest upon bonds of foreign countries or foreign corporations, whether such dividend or interest is paid in the United States or by check drawn on a domestic bank. (T. D. 2759; Oct. 2, 1918.)

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed by failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

The term "foreign corporation," as used in article 35 of Regulations No. 33, Revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

—— —— License of collecting agent.

All persons, corporations, etc., undertaking as matter of business or for profit, collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by ——— (name of collecting agent). (T. D. 2690; art. 48.)

Banks or agencies collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business, and are subject to such regulations for furnishing of information as Commissioner of Internal Revenue, with approval of the Secretary of the Treasury, shall prescribe, and to penalties prescribed for failure to obtain such license; blank application for license may be obtained from any collector of internal revenue, license to be issued without cost. (T. D. 2759; Oct. 2, 1918.)

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Income taxes—Continued.

—— Net income.

Corporations and joint-stock companies or associations, and insurance companies, keeping books of account on an accrual basis, may deduct from gross income, in returns of annual net income, accrued interest for the return year within limits prescribed by taxing acts when shown as a charge against accrued income upon the books of account. (T. D. 2625; Dec. 17, 1917.)

Where it is clearly established that debtor corporation has actually withheld and paid to proper officer of the United States the tax on interest on bonds containing tax-free covenant, recipient, having returned such interest as income, may take credit against any tax to which subject on the basis of the return, for tax so paid by debtor corporation. (T. D. 2690; art. 122.)

Under paragraph third of section 12 of income-tax act maximum principal upon which deductible interest may be computed is amount of paid-up capital stock plus one-half of interest-bearing indebtedness outstanding at close of year; amount of interest thus computed at contract rate, if actually paid within year, may be deducted, or if accounts are kept on basis other than actual receipts and disbursements, amount of interest actually accrued at contract rate, if computed on amount not in excess of maximum principal, may be deducted, provided it is so entered on books as to constitute liability against assets, and provided it does not include interest on indebtedness incurred in purchase of securities, income from which is not subject to tax; in ascertaining maximum principal, preferred stock will be considered as paid-up capital stock and not as indebtedness. (T. D. 2690; art. 180.)

Full value of stock as represented by par value of shares issued and outstanding is regarded as paid-up capital stock, except when assessable on account of deferred payments or when payable in installments, in which case amount actually paid will constitute actual paid-up stock; where stock is issued without par or nominal value, paid-up capital stock for purpose of arriving at maximum principal will be amount of cash paid into corporation or cash value at time acquired of property given in exchange for such stock; when there is no capital stock entire amount of capital (not including interest-bearing indebtedness) employed in business plus one-half of interest-bearing indebtedness outstanding at close of year, constitutes maximum principal upon which deductible interest can be computed. (T. D. 2690; art. 181.)

Capital employed in business, constituting one of the elements in computing allowable interest deductions, contemplates entire capital paid in by members of company, including so much of accumulated surplus as is actually used and employed in the business and properties of corporation, but does not include any borrowed capital or interest-bearing indebtedness. (T. D. 2690; art. 181.)

Indebtedness which is to be reported in return for purpose of determining maximum principal upon which interest deduction is to be computed shall not include noninterest-bearing indebtedness. (T. D. 2690; art. 182.)

Where no indebtedness is outstanding at close of year, maximum deduction allowable will be amount of interest paid on amount of indebtedness (other than indebtedness incurred in purchase of securities, income from which is exempt from tax) not exceeding at any time within year entire paid-up capital stock or capital employed in business outstanding at close of taxable year. (T. D. 2690; art. 182.)

The qualifying phrase, "outstanding at the close of the year," as used in paragraph third of section 12 of the income-tax act, applies to paid-up capital stock or capital invested and interest-bearing indebtedness, which indebtedness, like the paid-up capital stock or capital invested, is required to be reported in making return of annual net income, as outstanding at close of year; from amount of investment to be so reported there must be eliminated all indebtedness incurred in purchase of securities income from which is not subject to tax. (T. D. 2690; art. 182.)

Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during year, provided aggregate amount of indebtedness on which interest is paid does not exceed limit prescribed by law and in case indebtedness is not in excess of amount on which deductible interest may be legally computed; in such case indebtedness bearing highest rate may be first considered in computing interest deduction, and balance, if any, will be computed on indebtedness bearing next lower rate, and so on until interest on maximum principal allowed has been computed. (T. D. 2690; art. 183.)

Corporations owning property such as office buildings, hotels, apartment houses, etc., which are not for sale in ordinary business of corporation, but are held primarily for investment purposes or as a means by which business of corporation is car-

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Income taxes—Continued.

—— Net income—Continued.

ried on, and which are pledged as security for mortgaged notes or bonds upon which interest is paid, can not deduct such interest under deduction for expense of maintenance and operation, but shall include such interest payments, subject to the limitation of the law, under regular interest deductions. (T. D. 2690; art. 184.)

So-called interest on preferred stock, which is in reality a dividend thereon, can not be deducted in arriving at net income; for purpose of tax, dividends of whatever character can be paid only out of net income, and net income is subject to the tax, and for this purpose can not be reduced by any distribution among or payment to its stockholders, (T. D. 2690; art. 185.)

Interest paid pursuant to contract on indebtedness secured by mortgage on real estate occupied and used by corporation in which corporation has no equity or to which it is not taking title, is allowable deduction as rental charge, payment of which is required to be made as condition to continued use and possession of property; where corporation has equity in or is purchasing for its own use real estate upon which such mortgage is prior lien, indebtedness will be held to be indebtedness of corporation within meaning of law, and interest paid on such mortgage will be deductible only to extent that, including interest on other obligations of corporation, it is within limit fixed by law. (T. D. 2690; art. 186.)

Interest calculated as being charge against income on account of capital or surplus invested in business, but which does not represent payment on interest-bearing obligation, is not an allowable deduction; that is to say, interest which money would earn if otherwise invested is not a deductible charge. (T. D. 2690; art. 187.)

Car-trust certificates secured by equipment are obligations of railroad company similar to corporate bonds, etc., and trustees in whose names legal title to equipment stands are not an association within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and are therefore not taxable, but they are, for purposes of such title, a fiscal agent paying off the obligations, both principal and interest, of railroad companies with funds appropriated by such companies; companies may mortgage such certificates in amount of bonded or other indebtedness reported under item 2 of return, Form 1031, and interest paid thereon with interest on other obligations will be deductible; if certificates contain provision by which obligor agrees to pay portion of tax imposed upon obligee, or reimburse obligee for any portion of tax, or pay interest without deduction for any tax, trustees, in making interest payments will, in absence of claims for exemption, where interest payments are made to individuals, withhold normal income tax on such payments regardless of amount thereof. (T. D. 2690; art. 188.)

Where trustees of sinking fund have invested amount of sinking fund received or any portion of it in bonds of corporation, and such corporation pays to trustees interest thereon, the corporation will be permitted to deduct such interest, provided amount thus paid, plus interest on any other outstanding indebtedness, does not exceed legal limit; interest paid to trustees, together with all other earnings on investments made by trustees of the sinking fund, must be included in gross income of corporation. (T. D. 2690; art. 189.)

In case of banks and banking associations, loan or trust companies, interest paid within year on deposits or on moneys received from investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from gross income of such corporation. (T. D. 2690; art. 190.)

Where corporation returns as income interest received on bonds, interest upon which debtor corporation had agreed to pay without deduction of income taxes, and debtor corporation actually pays income tax assessable on such interest income, corporation receiving such interest may take credit against tax assessable on basis of net income returned, for amount of tax paid thereon by debtor corporation; when net income has been ascertained within rules set out in section 12 (a) of the act of September 8, 1916, as amended, it shall be credited with amount of excess profits tax assessed or to be assessed for same year; such excess profits tax allowance is a credit against the net income for purpose of taxes imposed by both the act of September 8, 1916, and act of October 3, 1917. (T. D. 2690; art. 199.)

Interest paid on indebtedness wholly secured by property collateral the subject of sale or hypothecation in ordinary business of company as dealer only in property constituting such collateral or in loaning of funds thereby produced is an allowable deduction in returns by insurance companies other than mutuals, but including mutual life and mutual marine, as business expense to an amount of interest paid on such indebtedness, not in excess of actual value of collateral securing it. (T. D. 2690; art. 240.)

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Income taxes—Continued.

—— **Net income**—Continued.

In ascertaining net income of a corporation under section 2, paragraph G (b) (first) of the act of October 3, 1913, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

All interest accrued on 3¾ per cent Victory notes at date of any conversion by taxpayer into 4¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest upon 3¾ per cent Victory notes, and will be entitled to exemptions from taxation to which interest upon 3¾ per cent Victory notes is entitled. (T. D. 2865; June 14, 1919.)

Interest accrued on 4¾ per cent Victory notes at date of conversion by taxpayer into 3¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest on 4¾ per cent Victory notes, and will be entitled only to exemptions from taxation to which interest on 4¾ per cent Victory notes is entitled; amounts received by taxpayer from United States by way of adjustment of accrued interest upon conversion of 4¾ per cent Victory notes will be deemed to be interest on 4¾ per cent Victory notes. (T. D. 2865; June 14, 1919.)

—— **Returns.**

Monthly returns reporting payment of interest on bonds, or payment of dividends on stock of domestic corporations, registered in the name of foreign corporations, not having an office or place of business in the United States, required to be prepared on Form 1012, revised (1918). (T. D. 2702; Apr. 18, 1918.)

—— **Withholding.**

Interest received from deposits in banks located within the United States paid to nonresident alien individuals and corporations constitutes income received from resources within the United States and is subject to withholding provisions of act of October 3, 1917. (T. D. 2623; Dec. 28, 1917. T. D. 2652; Feb. 6, 1918.)

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals or foreign corporations, having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

Form 1001, revised, shall be used when personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of United States, and when presenting coupons from bonds not containing tax-free covenant; by domestic partnerships, corporations, or associations; by nonresident alien partnerships; and by foreign corporations having office or place of business in United States, whether or not such bonds contain tax-free covenant. In case citizen or resident individual receives interest on bond containing tax-free covenant in excess of amount of personal exemption which individual may claim, any such excess must be reported on Form 1,000, revised. (T. D. 2690; art. 43.)

Form 1000, revised, shall be used when no personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of the United States; by nonresident alien individuals, foreign corporations having no office or place of business in the United States, whether or not such bonds contain a tax-free covenant; and in case where coupons are received not accompanied by certificates of ownership. First bank receiving coupons not accompanied by ownership certificates will make certificate, crossing out "owner" and inserting "payee," and will enter amount of interest on line 4. (T. D. 2690; art. 43.)

The withholding provisions of sections 9 (b) and (c) of the income tax law apply to the normal tax levied upon entire net income of nonresident aliens of a fixed or determinable annual or periodical class, as interest, rent, wages, etc., received by them from all sources within United States; tax to be deducted and withheld from individuals for 1917 and subsequent tax years is the 2 per cent normal tax imposed by the act of September 8, 1916, as amended. (T. D. 2690; art. 43.)

Withholding will at all times be limited to 2 per cent, except in case of interest on corporate bonds owned by foreign corporations having no office or place of business

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Income taxes—Continued.

—— **Withholding**—Continued.

in the United States, in which case deduction will be at rate of 6 per cent. (T. D. 2690; art. 45.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759: Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stock of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or partnerships, ownership certificate Form 1071, revised, shall be used for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

Munition manufacturer's tax.

Amount deductible from gross income on account of interest is amount of interest actually paid within year on debts or loans contracted to meet needs of business of manufacturing, and proceeds of which were actually used to meet such needs; this deduction must not include interest paid on debts or loans proceeds of which were used to meet needs of any other business in which manufacturer may be engaged; deduction can be taken only from gross income of year in which interest was actually paid. (T. D. 2384; art. 17.)

INVENTORIES.

Cigars, cigarettes, etc.

Instructions with reference to making inventory required by sections 3358, 3390, Revised Statutes; no claim of failure to make true inventory—in which certain tobacco was not included—submitted in response to notice to show cause against assessment for omitted tax on apparent deficiencies shown in examination of manufacturer's account, will be entertained; verification of inventories by deputy collectors. (T. D. 2390; Nov. 4. 1916.)

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Cigars, cigarettes, etc.—Continued.

All attached and unattached stamps for payment of tax on cigars held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

Instructions with reference to inventories required to be filed January 1, 1918, and verification thereof by collectors of internal revenue or their deputies; further duties of deputy collectors stated. (T. D. 2583; Nov. 17, 1917.)

Manufacturers of tobacco, snuff, cigars, and cigarettes required to make inventories in accordance with sections 3358, 3390, Revised Statutes, such inventory to be made before commencement of business of January 1, 1919; tobacco of each class, and stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco, snuff, cigars, and cigarettes, of the several classes, should be weighed separately; inventory must include unstemmed tobacco stored off bonded factory premises and also the attached and unattached stamps; tobacco material in factory required to be segregated according to classification; tobacco dust, sweepings, etc., must be inventoried as "waste"; weight and marks of each unopened package, etc., required to be listed on back of inventory form; record of quantity of tobacco used from date of inventory to date of deputy collector's visit required to be kept; inventory must be verified early as practicable after January 1, 1919; duties of deputy collectors enumerated. (T. D. 2777; Dec. 11, 1918.)

Inventories prepared in accordance with sections 3358 and 3390, Revised Statutes, required to be filed before commencement of business on January 1, 1920; inventory of attached and unattached stamps required; tobacco dust, sweepings, etc., to be inventoried as "waste"; listing of weight and marks of unopened packages, etc.; verification; duties of deputy collectors. (T. D. 2955; Nov. 29, 1919.)

A corporation carrying on business as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, will be required to have the monthly reports and inventories signed and sworn to by a duly authorized officer or agent of the corporation and to file the monthly reports within the prescribed time with the collector of the district in which the factory or dealer's place of business is located. (T. D. 3073; Sept. 27, 1920.)

An officer's authority to sign and make oath to a corporation's monthly reports and inventories, unless specifically given in the charter or by-laws, must be conferred by a resolution in due course of the board of directors. In case of such resolution, a certificate thereof in duplicate, executed by the president and attested by the secretary, should be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. (T. D. 3073; Sept. 27, 1920.)

Whenever it is not possible or convenient for an officer of a corporation to sign and swear to its monthly reports and inventories as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, an agent may be authorized to execute them and may bind the corporation as fully as an officer, under the following conditions:

A resolution in due course of the board of directors should appoint and authorize the superintendent or manager of the factory or leaf establishment, identifying both the individual and the factory or leaf establishment, to execute the monthly reports and inventories required of the corporation, and provide further that the power of attorney so created shall continue in full force until written notice of the revocation thereof is given to the collector of the district thereby affected. A certificate in duplicate of such resolution, executed by the president and attested by the secretary, should then be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. Such certificate will constitute authority for the collector, until he has actual notice of the recall of the power, to accept monthly reports and inventories executed by such agent. (T. D. 3073; Sept. 27, 1920.)

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on January 1, 1921. Each manufacturer should observe carefully the following instructions:

(1) The inventory must be made before the commencement of business on January 1, 1921. After it is completed the correct totals should be immediately entered

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Cigars, cigarettes, etc.—Continued.

on the blank form which will be furnished to each manufacturer by the collector of the district in which his factory is located.

(2) All stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco, snuff, cigars, and cigarettes of the several classes must be separately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

(3) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form, and weighed separately.

(4) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently described to aid the deputy collector in verifying the inventory. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "waste" only, and by quasi manufacturers of tobacco under separate heads, each properly described.

(6) An accurate record of the quantity of tobacco of each class used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of tobacco of each class which was on hand on the inventory date. (T. D. 3099; Dec. 10, 1920.)

Each inventory shall be verified by a deputy collector at the earliest practicable date after January 1, 1921. Each deputy should be directed, in determining the correctness of the figures shown in the inventory, to take into account the quantity of tobacco of each different kind sold and used on the one hand and purchased on the other hand between the time of his visit and the taking of the inventory. The deputy should require any necessary amendment to be made before permitting oath to be taken and should observe the instructions in Regulations No. 8 (revised July 1, 1910), page 60, under the head of "Deficiencies found by examining officers." Any deficiencies which may be discovered should be reported immediately. (T. D. 3099; Dec. 10, 1920.)

Every dealer in leaf tobacco is required to make and deliver to the collector of the district in which he is registered a true inventory, showing the places where his tobacco is stored and the kinds and quantity of each kind of tobacco held by him at each place, on January 1 next. Such inventory shall include all tobacco in his possession, but will not include tobacco owned by him, but held by another dealer, who must include it in his inventory. Such inventory shall be made under oath on Form 776, and shall show also the condition of the tobacco (whether green, redried, or resweated) on the inventory date. Actual weighing of tobacco on the inventory day will not be required, but if the tobacco is not weighed, the inventory should show that the "marked" weights are reported. (T. D. 3099; Dec. 10, 1920.)

Distilled spirits.

Where tax-paid whisky belonging to customers of distillers is held by the latter for shipping instructions, an inventory covering such spirits should be furnished by the owner thereof and not by the distiller, the distiller being required to furnish the collector with a statement showing the name and address of the owner, serial numbers of packages, and proof-gallon contents, time of shipment to owner, etc. (T. D. 2522; Sept. 10, 1917.)

Excise taxes.

Market value of stock on December 31, 1908, may be determined by an inventory taken as of that date, and the stipulated fact of the market value of the stock on that date may be accepted as supplying the lack of an inventory. (T. D. 2725; June 4, 1918. Ct. Dec.)

Whether determination of value of capital assets on December 31, 1908, should be made by taking mining inventory upon basis of market values then existing, or whether entire increment accruing between time of acquiring and time of disposing of assets should be prorated as if it had arisen through a series of gradual and imperceptible augmentations, is matter of detail, to be settled according to best evidence obtainable and in accordance with valid departmental regulations. (T. D. 2724; June 4, 1918. Ct. Dec.)

Income taxes—Gross income.

Gross income of manufacturing companies consists of the total sales plus the inventory at the end of the year less the sum of cost of goods or materials purchased

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Income taxes—Gross income—Continued.

during year and inventory at beginning of year; instructions as to how inventories shall be taken included in special regulations to be furnished upon application to collector of internal revenue. (T. D. 2690; arts. 91, 92.)

In all cases where inventories are taken for purpose of ascertaining gain or loss resulting from business of the year, inventories must be taken in accordance with instructions to be included in special regulations furnished upon application to collector of internal revenue. (T. D. 2690; art. 120.)

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918. Affirmed, T. D. 2744; July 11, 1918.)

—— **Net income.**

No deduction because of obsolescence or damage from inventory value of merchandise or material will be allowed except in cases in which the inventory includes goods or materials which by reason of obsolescense or damage are unsalable. When such deduction is claimed the facts connected therewith, including a statement of the cost of the goods, the value at which they were inventoried, and their present condition, must be filed with the return. (T. D. 2690; art. 160.)

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock on hand at the close of the year, and then deduct amount expended in purchasing live stock plus inventory of live stock at beginning of year; no deduction can be made for stock lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase or age or other causes; cost price of article sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

Returns on basis of.

See specific heads.

Wines.

Wine makers and bonded dealers must at close of each business year take an inventory of all wines actually remaining on their premises at that time; notice to collector of date on which inventory is to be taken required; statement required to be made on last page of Form 702 for month during which inventory is taken; effect of variance between quantity found to be actually on hand and that reported; affidavits. (T. D. 2545; Oct. 16, 1917.)

INVESTED CAPITAL.

Definition.

The term "invested capital," as used in excess profits tax law, means the invested capital of the present owner. (T. D. 2694; art. 42.)

The term "invested capital," when used with reference to a foreign corporation or partnership or a nonresident alien individual, means that proportion of the entire invested capital as defined and limited by Regulations No. 41 which the net income from sources within the United States is of the entire net income. (T. D. 2694; art. 48.)

Act of October 3, 1917, Title II, undertakes to define "invested capital," and in computing invested capital it is necessary to come within the definition contained in such act. (T. D. 3051; July 27, 1920. Ct. Dec.)

The term "invested capital," as used in section 209 of the act of October 3, 1917, includes all working capital consisting of money or property employed in the business or for its benefit, and furnished or paid in by one or more of the partners. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Excess profits tax.

See "Excess Profits Tax."

Income taxes—Deductions.

Amounts expended for securing copyright and plates which remain in possession of and as property of person making payments are investments of capital and can not be allowed as deductions. (T. D. 2690; art. 8.)

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Income taxes—Deductions—Continued.

Amount expended for architectural service is part of cost of building and is not a deductible business expense; cost of defending title or perfecting title to property constitutes part of the cost of property and is not a business expense. (T. D. 2690; art. 8.)

Amounts to be assessed and paid under mutual agreement between bondholders and stockholders of corporation to be used in reorganization of corporation are investments of capital and not deductible. (T. D. 2690; art. 8.)

Where leasehold is sold for specified sum, purchaser may take as deduction an aliquot part of such sum each year, based on number of years lease has run. (T. D. 2690; art. 8.)

IODINE.

Denatured alcohol.

See "Alcohol."

IRRIGATION.

Capital stock tax—Exemption of companies.

Farmers' or other mutual ditch or irrigation company of purely local character, income of which consists wholly of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. D. T. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemption of companies.

Mutual ditch or irrigation company is specifically exempt from income tax, provided that their entire income consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organization has income from any source other than assessments, dues, and fees, such income is taxable, and organizations receiving same will be required to make returns. (T. D. 2690; art. 69.)

—— Net income.

District irrigation bonds generally are a lien upon real estate affected by irrigation project, and until corporation holding such bonds has taken necessary action to protect its interest and enforce collection of such bonds corporation will not be allowed to deduct face value or any estimated amount suppoesd to represent loss or shrinkage in value of such bonds; any estimated shrinkage in value does not constitute loss within meaning of Title I of the act of September 8, 1916, as amended by act of October 3, 1917; so long as value of security is uncertain or unknown loss can not definitely be ascertained and is therefore not deductible. (T. D. 2690; art. 153.)

ITINERANT MANUFACTURERS.

Beverages.

Itinerant manufacturer should make return and pay tax to collector of district where sales of beverages are made. (T. D. 2719; Art. XXXIV.)

Excise taxes.

Itinerant manufacturer of commodities should make return and pay war excise tax to collector of district where sales are made. (T. D. 2719; Art. XXVI.)

ITINERANT SHOWS.

Admissions.

Proprietor, manager, or duly authorized officer of traveling or itinerant shows, exhibitions, or amusement enterprises, which have fixed or established headquarters, required to register with collector of district in which headquarters are located and required to file at same time, or as soon thereafter as possible, a schedule of the itinerarary and to keep a daily record and render monthly returns to the collector of said district. (T. D. 2681; Mar. 26, 1918.)

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

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JAMAICA GINGER.

Nonbeverage alcohol.

See "Alcohol."

JEWELRY.

Excise taxes.

Tax imposed by section 600 (e) of the act of October 3, 1917, is 3 per cent of the price for which any article commonly or commercially known as jewelry, whether real or imitation, is sold by the manufacturer; all articles, among others, which have been specifically classified as jewelry by the Board of United States General Appraisers deemed to be jewelry; jewelry includes ornaments made of gold, silver, or platinum, or any imitations thereof, and precious or semiprecious stones or imitations thereof, used for personal adornment; an article may be jewelry although serving a useful as well as ornamental purpose; rulings as to watches, silver tableware, opera glasses, clocks, precious stones, vanity boxes, garters, suspenders, emblem buttons, etc. (T. D. 2719; Arts. XIII-XVI.)

The presence of a ring or loop by which a pencil made or plated with precious metal may be hung on a chain indicates that such pencil was designed for personal adornment and requires it to be classified as jewelry for purposes of excise tax on sales. (T. D. 2785; Jan. 23, 1919.)

JOINT-STOCK COMPANIES OR ASSOCIATIONS.

Capital stock tax.

See "Capital Stock Tax."

Definition.

Term "joint-stock company or association," as used in Regulations No. 33, relating to income tax, includes associations, common-law trusts, or organizations by whatever name known, which carry on or do business in an organized capacity, net income of which, if any, is distributed or distributable among members or shareholders on basis of capital stock which each holds, or, where there is no capital stock, on basis of proportion, share or capital which each has or has invested in business or property of organization. (T. D. 2690; art. 58.)

Limited partnerships of the Pennsylvania type, which offer opportunity for imiting liability of all the members, provide for transferability of partnership shares and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

Excess profits tax.

See "Excess Profits Tax."

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

JOINT-STOCK LAND BANKS.

Capital stock tax—Exemptions.

Tax does not apply to joint-stock land banks as to income derived from bonds or debentures of other joint-stock land banks or Federal land bank belonging to such joint-stock land bank. (T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemptions.

Joint-stock land banks are exempt from tax without condition as to income specified in the law; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

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JOINT TENANCY.

Estate tax.

If property conveyed to husband and wife is taken by each in entirety and in such manner that each was owner of all, and upon death of either no new interest or title vested in survivor, one-half of property thus jointly owned should be returned as portion of gross estate of decedent husband or wife, as case might be; wherever public records show property in name of decedent, presumption is that it was sole property of decedent, and burden of showing that surviving spouse owned any interest therein is upon such spouse. (T. D. 2450; Feb. 14, 1917.)

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by fiduciaries holding property of any kind, jointly or in entirety, for decedent and another or others. (T. D. 2454; Feb. 28, 1917.)

JUDGES.

Income taxes—Exemptions.

Retired pay of judges of United States courts is subject to income tax. (T. D. 2690; art. 4.)

Compensation of all judges of the Supreme Court and inferior courts of the United States in office September 8, 1916, and October 3, 1917, shall not be included as income, compensation of judges of those courts appointed subsequent to September 8, 1916, being subject to tax under act of that date, but not under act of October 3, 1917; compensation of judges of such courts appointed subsequent to October 3, 1917, are subject to tax under both acts. (T. D. 2690; art. 5; see T. D. 3037.)

JUDGMENT.

Income taxes—Claims.

When suit to recover tax is decided in favor of United States and execution issued and returned nulla bona as respects whole or part of judgment, collector should satisfy himself whether or not any personal property can be found to satisfy such judgment, and whether there is any real property which can be subjected by distraint or by suit in equity under section 3207, Revised Statutes, to sale in satisfaction of judgment; where satisfied that there is no such real or personal property collector should present to Commissioner a claim on Form 53 for abatement of amount not collected if it has not already been abated, making statement thereon of his action, accompanied by certificate of clerk of court as to facts in case. (T. D. 2690; art. 253.)

Inheritance taxes—Bar of suit.

Judgment in suit against collector to recover succession tax collected under act of June 13, 1898, for part of claim only, certain interests involved being erroneously held to be taxable as being vested in possession or enjoyment before July 1, 1902, which judgment was satisfied by the United States, is no bar to suit against United States in Court of Claims to recover unpaid residue. (T. D. 2885; July 10, 1919. Ct. Dec.)

LABELS.

Alcohol.

See "Alcohol."

Cigar boxes.

See "Cigars."

Distilled spirits.

See "Distilled Spirits."

Medicinal preparations.

See "Medicinal Preparations."

Oleomargarine containers.

See "Oleomargarine."

Wines.

See "Wines."

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LABOR ORGANIZATIONS.

Capital stock tax.

Labor organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, Art. 12; Aug. 9, 1918.)

Income taxes—Exemption.

Labor organizations are exempt from tax without condition; collector being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

LANDLORD AND TENANT.

Admissions.

When a person or organization leases a theater, hall, park, or place, lessee must collect tax on admissions to entertainments or amusements conducted at such place, but lessor is permitted to assume responsibility for collection of tax; if this is done, lessee will sell tickets from reels or supplies of proprietor, and record will be kept in daily records of lessor in same manner as if entertainment had been conducted by proprietor, but in addition, name of lessee must appear in a space provided in such record, and lessee shall certify to correctness of record; exchange of general admission tickets for regular box-office tickets; notice of lease to collector; en bloc sale of tickets; effect of failure to adopt procedure authorized. (T. D. 2681; Mar. 26, 1918.)

Tax imposed by section 700 of the act of October 3, 1917, must be paid in respect to performance for which boxes or seats are sold or reserved, whether or not they are used; if there are no boxes of similar size, tax is to be computed by dividing tax payable on smaller box by number of seats in larger box, and if there are no boxes occupying similar position tax is to be based on price of single seats in same part of house; in case of seats or boxes leased or reserved for period before and after November 1, 1917, tax is payable on admissions after October 31, 1917, and should be collected for all such admissions upon first use of box or seat after that date; where lease only entitles lessee to right of occupancy upon payment of regular price charged for admission, tax of 10 per cent is to be collected also on additional charge when paid. (T. D. 2681; Mar. 26, 1918.)

Capital stock tax.

A corporation orignally organized for the purpose of owning and renting an office building which leased the property for 130 years and reorganized and practically went out of business, its sole authority being to hold the title subject to the lease and to receive and distribute the rentals accruing thereunder or the proceeds of sale, if the property should be sold, is not liable to tax. (T. D. 2418; Dec. 15, 1916.)

Railroad corporation which has leased its property for a term of years and parted with its control and management, but which maintains its corporate organization and collects rentals from lessee company and distributes same among its stockholders, is not engaged in business so as to be liable for tax, notwithstanding lease provides for recovery of property in case of default; this does not apply where corporation is organized for ostensible purpose of building and operating a railroad and leases the road before it is built. (T. D. 2418; Dec. 15, 1916.)

If purpose for which corporation was organized was to build and lease property, rents derived from such lease are taxable even though thereby the corporation leases all the property and of necessity goes out of all corporate business excepting the collection and distribution of the rents. (T. D. 2418; Dec. 15, 1916.)

Excise taxes—Mining properties.

Lessee of mining property may not deduct proportionate value of ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct proportionate part of royalty paid in advance. (T. D. 2721; June 4, 1918. Ct. Dec.)

Iron ore leases under consideration in case of United States *v.* Biwabik Mining Co., decided by the Supreme Court of the United States, held not to be conveyances of ore in place, but to be grants of privilege of entering upon, discovering, and developing and removing the minerals from the land (Sargent Land Co. case, 242 U. S., 503, followed). (T. D. 2721; June 4, 1918. Ct. Dec.)

Excise tax imposed by the act of October 3, 1917, is, in case of positive moving-picture films, on their sale or lease by the manufacturer. (T. D. 2719; Art. III.)

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Excise taxes—Continued.

—— Moving-picture films.

In case of lease of moving-picture films tax attaches when manufacturer enters into contract of lease, either express or implied, and pursuant thereto delivers film to lessee or to carrier for lessee. (T. D. 2719; Art. IV.)

Tax imposed by section 600 of the act of October 3, 1917, does not attach to films first sold or leased prior to October 4, 1917. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, applies to the first sale of lease of any new positive moving-picture films and not to the second or any subsequent sale or lease. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, does not apply to moving-picture films leased by the manufacturer, producer, or importer located in one of the several States of the United States, where such films are exported by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer. (T. D. 2781; Dec. 20, 1918.)

Income taxes—Gross income.

When improvements become part of real estate, difference between cost thereof and allowable depreciation during lease term is gain or profit to lessor at end of lease term, and must be accounted for as income at that time. (T. D. 2690; art. 4.)

Taxes paid by tenant to or for landlord for business property are additional rent and constitute deductible item to the tenant, and taxable income to landlord, and amount of such tax will be deductible by the landlord. (T. D. 2690; art. 8.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships, to nonresident alien employees for services rendered entirely in a foreign country and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art. 32.)

Gross income from sources within United States, as applied to foreign corporations, includes income from rentals. (T. D. 2690; art. 89.)

Where corporation leases property in consideration that lessee pay in lieu of rental an amount equivalent to certain rate of dividend on capital stock or interest on outstanding indebtedness, together with fixed charges, such payments shall be considered rental payments and shall be returned by the lessor corporation as income, notwithstanding fact that dividend and interest are paid by lessee direct to stockholders and bondholders of lessor. (T. D. 2690; art. 102.)

Fact that corporation has conveyed or let its property will not relieve it from liability to tax; if it has or may have income directly or indirectly from any source it must make return, account for all such income, and pay tax assessable thereon. (T. D. 2690; art. 102.)

Where corporation is owner of all stock in subsidiary company and the lessee of all its property, regularly maintaining possession, control, and management of all the subsidiary's money and other property, so that the subsidiary is a mere agent of the other corporation and is practically merged therewith, dividends of the subsidiary declared out of a surplus which accrued prior to March 1, 1913, are not taxable income of the parent corporation. (T. D. 2730; June 11, 1918. Ct. Dec.)

—— Information at source.

Payments of rent made to real estate agents do not require reports of information (but agent must report payments to landlord if the same amounts to $800 or more during 1917.) (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying rent of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such rent and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

—— Net income.

Amounts expended by tenants for taxes and necessary repairs under agreement, in addition to stipulated cash rental, are items of taxable income, and as such should be reported in return of landlord; corresponding amount may be deducted by the landlord. (T. D. 2690; art. 4.)

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Income taxes—Continued.

—— **Net income**—Continued.

Where leasehold is sold for specified sum, purchaser may take as deduction an aliquot part of such sum, each year, based on number of years lease has to run. (T. D. 2690; art. 8.)

In case of professional man who rents property for residential purposes but receives there clients or callers in connection with his professional work (place of business being elsewhere), no part of rent is deductible as business expense. (T. D. 2690; art. 8.)

Taxes paid by tenant to or for landlord for business property are additional rent and constitute deductible item to the tenant, and taxable income to landlord, and amount of such tax will be deductible by the landlord. (T. D. 2690; art. 8.)

While payments made by lessee direct to stockholders or bondholders are rentals to both it and lessor, rentals paid in one case and rentals received in other, to the stockholders or bondholders they are interest and dividend payments received as from the lessor, and as such will be accounted for in their returns of annual net income. (T. D. 2690; art. 103.)

Stock trust certificates or leased line certificates, as case may be, issued by lessee for purpose of securing or holding control of stock of lessor are held to be issued in lieu of certificates of capital stock, and they will be treated as capital stock and amounts received by holders are dividends to them, to be treated as rentals by both lessee and lessor and constitute allowable deduction in one case and item of income in other, accordingly as they are paid and received. (T. D. 2690; art. 104.)

Cost of erecting permanent buildings or of making permanent improvements on ground leased by company is an additional rental and may be deducted, provided such improvements, under terms of lease, revert to owner of ground at expiration of lease; in such case cost will be prorated according to number of years constituting term of lease and annual deduction will be aliquot part of such cost. (T. D. 2690; art. 140.)

Lessee corporation may not deduct any depreciation with respect to buildings erected by it on leased ground, but cost of incidental repairs necessary to keep buildings in efficient condition for purpose of their use may be deducted as expense of operation and maintenance; if life of improvement is less than life of lease, depreciation may be taken by lessee, based upon cost and life of improvement. (T. D. 2690; art. 140.)

Cost of incidental repairs necessary to keep buildings erected by lessee corporation in efficient condition for purposes of their use may be deducted by such corporation as an expense of operation and maintenance. (T. D. 2690; art. 140.)

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of commuting depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income thereform sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

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Income taxes—Continued.

—— **Net income**—Continued.

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Operator will be permitted to deduct from gross income of each year reasonable allowance for depreciation of all physical property used in connection with operation of mine and owned by operator; for this purpose the actual cost (not value) will be equitably distributed over useful life of such property until true salvage value has been reached; both owner and lessee will keep accurate ledger accounts, to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Operator of mining properties, or lessee thereof, required to attach to his return statement setting out certain specified data. (T. D. 2690; art. 172.)

Lessee corporation not entitled to any deduction as such, but if lessee, in addition to royalties, pays stipulated sum for right to explore, develop, and operate mine, such sum may be spread ratably over estimated number of units in mine, and thus ascertain amount of invested capital or bonus payment applicable to each unit; per unit cost thus ascertained will be multiplied by number of units removed from mine during any one year, and result will be amount that may be deducted from gross income of that year as return of capital invested; in case of both mine owner and lessee, no deduction for depletion or return of capital will be allowed when invested capital has, through the aggregate of all such deductions, been extinguished; for purpose of computing this deduction in case of lessee company actual amount of bonus paid and not value as of March 1, 1913, will be considered capital invested to be returned through aggregate of annual deductions. (T. D. 2690; art. 172.)

The fact that the lessee of a mine is under an affirmative obligation to remove or at least to pay for a fixed amount of ore does not change the general rule as to depletion in the case of lessees. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The lessee of a mine is not entitled to a deduction for depletion under the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

—— **Returns.**

All corporations, partnerships, or individuals who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are farmers for the purposes of instruction governing preparation of income-tax returns by farmers. (T. D. 2665; Mar. 8, 1918.)

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority conferred by power of attorney, is not a fiduciary within the income-tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney, liability under the law rests with the principal. (T. D. 2690; art. 29.)

Where bonded or other indebtedness of leased or purchased line has been assumed by operating company, it may deduct from its gross income interest paid on such indebtedness, provided such interest, plus interest paid on its own indebtedness, is not in excess of limit fixed by law; in this event the leased or purchased line so long as it has a corporate existence will make return of annual net income, setting out that on its own account it has neither income nor expenses, and that both are taken up in return of operating company, naming it. (T. D. 2690; art. 125.)

Railroad company operating leased or purchased lines as integral part of its line or system and keeping no separate books of account as to such leased or purchased line, income from operation of which can not be segregated, shall include in its income all receipts derived therefrom. (T. D. 2690; art. 125.)

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Income taxes—Continued.

—— **Returns**—Continued.

If leased or purchased line keeps separate books of account, or income is or can be segregated, or if lessee or operating company pays it a certain rental, or in lieu of rental pays certain per cent of dividends on its stock, interest on its bonds, taxes, etc., lessor will return same as its income, and lessee or operating company will make its return as though it were in no way related to leased line. (T. D. 2690; art. 125.)

—— **Withholding.**

The withholding provisions of sections 9 (b) and (c) of the income-tax law apply to the normal tax levied upon entire net income of nonresident aliens of a fixed or determinable annual or periodical class, as interest, rent, wages, etc., received by them from all sources within United States; tax to be deducted and withheld from individuals for 1917 and subsequent tax years is the 2 per cent normal tax imposed by the act of September 8, 1916, as amended. (T. D. 2690; art. 43.)

Stamp tax on leases.

Tax stamps need not be attached to leases. (T. D. 2599; Dec. 3, 1917.)

Terminal or switching company—Transportation charges.

Where a terminal or yard is operated under its own management for profit, or if a fixed rental be charged users or tenants for services rendered by the terminal or switching company, tax imposed under sections 500 and 501 of the act of October 3, 1917, applies to transportation charges made by tenants or users on such commodities. (T. D. 2676; Mar. 18, 1918.)

LAST DUE DATE.

Definition.

"Last due date," as used in Regulations No. 33, mean last day upon which a return is required to be filed in accordance with provisions of the law, or last day of period covered by an extension of time granted by the collector or Commissioner of Internal Revenue. (T. D. 2690; art. 218.)

LEAF TOBACCO.

See "Tobacco."

LEASES.

See "Landlord and Tenant."

LEAVE OF ABSENCE.

Revenue officers.

Applications for leave of absence required to be in writing or by telegraph or telephone, if emergency requires, and to be reported by revenue agent under whom agent or inspector is assigned to duty; leave of absence is subject to approval of Commissioner of Internal Revenue; telegraph or telephone charges incident to procuring leave are at expense of officer desiring such leave; manner of reckoning leave of absence and extent thereof. (T. D. 2369; Sept. 12, 1916.)

LECTURE LYCEUMS.

Admissions tax.

When a Chautauqua bureau presents a Chautauqua under the usual form of agreement with a local body by which latter subscribes for season tickets and receives them to resell to the public, the admission tax is payable on (1) amount paid by local body to the bureau, regardless of number of tickets not resold or not used, on (2) any excess received by local body from resale of tickets over the amounts so paid by it, and also on (3) all admissions other than by tickets so sold to the local body. (T. D. 2782; Dec. 24, 1918.)

Definition.

The term "lecture lyceums," as used in clause 8 of section 3 of the act of October 22, 1914, defines no well-known method of public entertainment save as the meaning may be gathered from the aggregation of the two words; there is no system of entertainments known as lecture lyceums; it does not include mere independent show units engaged for the occasion, whether shown alone or as an antidote for somnolence. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

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Occupational tax.

Statement of matters involved in case of Redpath Lyceum Bureau *v.* Pickering, in order that decision holding that the Redpath Co. is not a lecture lyceum within eighth subdivision of section 3 of the act of October 22, 1914, may be properly understood. (T. D. 2448; Feb. 14, 1917.)

Exemption of lecture lyceums under clause 8 of section 3 of the act of October 22, 1914, does not apply to lecture lyceum bureau which is proprietor of shows or exhibitions. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

LEGACY TAXES.

See "Inheritance Taxes."

LIBERTY BONDS.

Additional taxes.

Collectors authorized to accept in lieu of surety bonds as security for payment of floor taxes covered by section 1002 of the act of October 3, 1917, Liberty bonds of the United States equivalent to the actual amount of taxes due. (T. D. 2537; Oct. 17, 1917.)

Bonds deposited as security must be immediately forwarded to Commissioner of Internal Revenue by registered mail for safe keeping, except where collector's office is in same city as Federal reserve bank, in which case coupon bonds received should be deposited with such bank, which will issue its receipt; disposition of receipts; assignment of registered bonds; insurance of package. (T. D. 2554; Oct. 25, 1917.)

Collectors authorized to accept certificate of bank or trust company, member of Federal Reserve System, sufficiency and solvency of which are satisfactory to collector, to effect that taxpayer has deposited cash or Treasury certificates of indebtedness in full payment of Liberty loan bond subscriptions in name of "Commissioner of Internal Revenue in trust for ——— ———," or in event bond transaction is not consummated taxes will be paid to collector in cash or corporate surety bond filed; form of certificate indicated; certificate to be forwarded to Commissioner of Internal Revenue. (T. D. 2554; Oct. 25, 1917.)

Where Liberty bonds are deposited as security, principal must execute bond in stated form; liberty bonds deposited and in possession of collector of internal revenue should be surrendered to taxpayer as soon as the tax and interest have been paid; if tax is paid in installments, a proportionate amount of the collateral deposited may be surrendered in the discretion of the collector. (T. D. 2574; Oct. 31, 1917.)

Estate or inheritance taxes—Payment.

Circular No. 132, issued under date of January 30, 1919, with reference to receipt of Liberty bonds in payment of estate or inheritance taxes, published. (T. D. 2802; Mar. 12, 1919. See also T. Ds. 2878, 2898, 2904, 2905.)

Excise taxes.

Corporation owning Liberty bonds is not, to that extent, exempt from franchise taxes, excise taxes, and other corporation taxes of the United States, and of the several States. (T. D. 2512; June 8, 1917.)

Income taxes—Exemptions.

Income from United States bonds issued under the act of September 24, 1917, is exempt from the war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

Interest on obligations of United States (but, in case of obligations issued after September 1, 1917, only if and to extent provided in act authorizing issue thereof), or its possessions shall not be included as income. (T. D. 2690; art. 5.)

When income as such is taxable to beneficiaries, as in case, under present income tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries, each beneficiary is regarded as owner of proportionate part of bonds held in trust, and subscription of trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and entitles him to collateral exemption of interest on bonds of previous issues, whether

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Income taxes—Exemptions—Continued.

owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust and the trust is entitled to exemption on account of such ownership; in such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the original subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to individual partners, as under present income tax law, each partner is treated as owner of proportionate part of Liberty Loan bonds held by partnership and entitled to exemption on account of such ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

When income of partnership is taxable to partnership as such, as under present excess profits tax law, partnership is treated as owner of Liberty Loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

Corporation, and not stockholders, is regarded as owner of Liberty Loan bonds held by a corporation and entitled to exemption on account of such ownership; when bonds of Fourth Liberty Loan are subscribed for by corporation it, and not stockholders, is original subscriber and entitled to collateral exemption of interest on bonds of previous issues on account of such original subscription. (T. D. 2762; Oct. 18, 1918.)

Circular, issued under date of April 23, 1919, with reference to tax exemptions of Liberty bonds and Victory notes published for information of internal revenue officers and others concerned. (T. D. 2836; May 7, 1919.)

For purposes of additional tax exemption for Liberty bonds granted by section 2(b) of the Victory Liberty loan act, approved March 3, 1919, Victory notes of either series issued upon conversion of Victory notes of the other series which were originally subscribed for by any taxpayer will be deemed to have been originally subscribed for by such taxpayer. (T. D. 2857; June 7, 1919.)

All interest accrued on 3¾ per cent Victory notes at date of any conversion by taxpayer into 4¾ per cent Victory notes, will, for purposes of computing net income, be deemed to be interest upon 3¾ per cent Victory notes, and will be entitled to exemptions from taxation to which interest upon 3¾ per cent Victory notes is entitled. (T. D. 2865; June 14, 1919.)

Interest accrued on 4¾ per cent Victory notes at date of conversion by taxpayer into 3¾ per cent Victory notes will, for purposes of computing net income, be deemed to be interest on 4¾ per cent Victory notes, and will be entitled only to exemptions from taxation to which interest on 4¾ per cent Victory notes is entitled; amounts received by taxpayer from United States by way of adjustment of accrued interest upon conversion of 4¾ Victory notes will be deemed to be interest on 4¾ per cent Victory notes. (T. D. 2865; June 14, 1919.)

Stamp tax on notes secured by.

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

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Wine makers—Deposits.

Wine maker producing not exceeding 1,000 gallons may either file bond, Form 699, or may deposit with collector as security Liberty Loan bonds or cash equal to amount of tax; if Liberty Loan bonds are deposited, he must execute bond, in duplicate, in stated form, and in such form with appropriate substitutions in case cash is deposited; bond and security must be filed with collector prior to time of crushing grapes. (T. D. 2765; Oct. 21, 1918.)

When Liberty Loan bonds or cash are deposited as security by wine maker producing not exceeding 1,000 gallons per year, the collector should give the depositor a receipt in stated form, which receipt should be made in triplicate, one copy being immediately transmitted to Commissioner of Internal Revenue; safekeeping of bonds; assigning of registered bonds; security thus pledged should not be held by collector except upon instructions from Commissioner, and security will be surrendered as soon as tax and any accrued penalty and interest have been paaid (T. D. 2765; Oct. 21, 1918.)

LICENSES.

Fermented malt liquors.

Brewers intending to produce fermented malt liquor on and after January 1, 1918, required to apply for license to operate under food-control act of October 10, 1917; contents and form of application; issuance and posting of license. (T. D. 2618; Dec. 21, 1917.)

Income taxes—Banks or agencies collecting foreign items.

All persons, corporations, etc., undertaking as matter of business or for profit collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by ——— ——— (name of collecting agent)." (T. D. 2690; art. 48.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed for failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

—— Deductions.

License taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

LIFE ESTATES.

Estate tax.

See "Estate Taxes."

LIFE INSURANCE.

See "Insurance."

LIF EMEMBERSHIP FEES.

See "Dues."

LIMITATION OF ACTIONS.

Recovery of taxes paid.

The bar of section 3226, Revised Statutes, making appeal to Commissioner and decision by him a necessary condition precedent to action to recover tax illegally collected, and of section 3228, Revised Statutes, fixing two years as time within

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Recovery of taxes paid—Continued.

which to bring such an action, is removed as to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of the act of June 27, 1902, and section 2 of the act of July 27, 1912, and presented to Commissioner claim for refund of the tax. (T. D. 2886; July 10, 1919. Ct. Dec.)

Where application was made on September 7, 1916, to the Secretary of the Treasury for repayment of tax collected under act of June 13, 1898, and claim was rejected on October 30, 1916, suit brought in Court of Claims on January 23, 1917, under the act of July 27, 1912, was within the six-year period allowed by section 1069, Revised Statutes. (T. D. 2885; July 10, 1919. Ct. Dec.)

Refunds.

Under the provision of section 14, paragraph (a), act September 8, 1916, that upon examination of any return of income made pursuant to Title I, act of August 5, 1909, and act of October 3, 1913, if it shall appear that amounts of tax have been paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding provisions of section 3228 of the Revised Statutes, claims for refund which have once been rejected by the Commissioner because of the statute of limitation in existence at that time may be reopened; claims rejected can also be reopened if the question involves an examination of the return. (T. D. 2396; Nov. 1, 1916.)

A tax demanded and paid under section 29 of the war-revenue act of June 13, 1898, on a contingent beneficial interest not vested prior to July 1, 1902, contrary to the refunding act of June 27, 1902, is a tax "erroneously collected" within meaning of the act of July 27, 1912, although payment was without protest or reservation, and under that act right to refund is barred if claim was not presented to the Commissioner of Internal Revenue on or before January 1, 1914. (T. D. 3007; Apr. 22, 1920. Ct. Dec.)

Filing of amended returns does not constitute beginning of new proceedings which so supersede the original returns as to remove bar imposed by sections 3227, 3228, Revised Statutes, against claims by taxpayers for refund of taxes paid upon original returns and assessments. (T. D. 3013; May 3, 1920. Ct. Dec.)

LIMITED PARTNERSHIPS.

Capital stock tax.

Pennsylvania partnerships with limited liability and similar so-called limited partnerships or partnership associations, having perpetual succession and capable of taking title to real estate and suing in common name, are subject to tax imposed by act September 8, 1916, although they may not issue stock certificates to evidence the shares of the members. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

Limited partnerships of the New York type, having practically no characteristics of a corporation or joint-stock company except limited liability as to some of the partners, are not within scope of tax imposed by act September 8, 1916. (T. D. 2750, art. 2; Aug. 9, 1918.)

Definition.

Limited partnership is partnership having one or more special partners who may share in profits of firm but whose liability for debts of company is limited to amount of capital invested by such special partner or partners. (T. D. 2690; art. 62.)

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not, in effect, so organized. (T. D. 2711; May 9, 1918.)

LINIMENTS.

Denatured alcohol.

See "Alcohol."

LIQUEURS.

See "Rectified Spirits;" "Wines."

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LIVE STOCK.

Income taxes—Exemptions.

Agricultural organizations do not include corporations engaged in growing agricultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to benefit of members, are educational or instructive in character, and which have for their purpose the betterment of conditions of those engaged in these pursuits, improvement of growing of their products, and encouragement and promotion of industries to higher degree of efficiency; included in this class as exempt are county fairs and like associations of a quasi-public character; societies or associations holding race meets from which profits inure or may inure to members or stockholders are not exempt. (T. D. 2690; art. 73.)

Corporation engaged in raising stock or poultry, or growing grain, fruits, or other products of this character, as means of livelihood and for purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and, as such, is not exempt from taxation. (T. D. 2690; art. 74.)

—— Gross income.

In case of sale total amount received for stock raised and for stock purchased for resale is to be accounted for as income. (T. D. 2690; art. 4.)

—— Net income—Depreciation.

Under paragraph 7 of section 5 (a) of the act of September 8, 1916, there may be claimed a reasonable allowance for depreciation on stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 4.)

Corporations engaged in farming may claim reasonable allowance for depreciation on stock purchased for breeding purposes, but no claim for depreciation on stock purchased for resale will be allowed. (T. D. 2690; art. 123.)

There may be claimed a reasonable allowance for depreciation on farm buildings, farm machinery, and other physical property, including stock purchased for breeding purposes, but no claim for depreciation on stock raised or purchased for resale will be allowed. (T. D. 2690; art. 123.)

—— —— Death.

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock on hand at the close of the year, and then deduct amount expended in purchasing live stock plus inventory of live stock at beginning of year; no deduction can be made for stock lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase or age or other causes; cost price of articles sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

Individual engaged in raising and selling stock may not claim as loss value of such animals raised as die; in case of animals purchased, which die, amount of purchase money will be an allowable deduction, if not previously deducted as business expense. (T. D. 2690; art. 4.)

Money expended for stock for breeding purposes is regarded as capital invested, and where stock dies from disease or injury or is killed by order of authorities of State or United States and cost thereof has not been claimed as item of expense, amounts so expended, less any depreciation which may have been previously claimed, may be deducted as a loss; if reimbursement is made by State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

Corporation engaged in raising and selling live stock can not deduct amounts claimed as loss on account of death of such stock through exposure or otherwise, unless and to extent that such stock was specifically paid for in cash or its equivalent; if stock is raised and fed upon farm or range, cost of feeding and raising will be included as operating expenses, and no loss of capital is sustained when live stock perishes; if stock was purchased and cost thereof was not charged into expenses and as such deducted from gross income, deductible loss will be actual purchase price less any depreciation which had been previously charged off and deducted. (T. D. 2690; art. 154.)

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Income taxes—Continued.

—— Net income—Continued.

—— —— Purchase price.

Cost of live stock purchased for resale by corporation engaged in operating plantations, stock farms, etc., is an allowable deduction under item of expense. (T. D. 2690; art. 123. But see T. D. 2665.)

Amount expended in purchasing stock for resale is an investment of capital and is not to be taken as an item of expense for year in which stock was purchased or for any subsequent year, but when stock so purchased is sold its cost is to be deducted from sales price in ascertaining amount of gain or profit returnable for tax purposes; return where cost of stock purchased in 1916 or any previous year for resale has been claimed as a deduction. (T. D. 2665; Mar. 8, 1918.)

—— —— Expenses.

All items of expense connected with the care, feeding, and marketing of live stock may be claimed as deductions only in the return rendered for the year during which such expenditures were made; this applies even though stock may not have been sold or exchanged for money or money equivalent during year for which return is rendered. (T. D. 2665; Mar. 8, 1918.)

In determining cost of stock for purpose of ascertaining deductible loss there shall be taken into account only the purchase price and not the cost of any feed, pasturage, or care which has been deducted as an expense of operations. (T. D. 2690; art. 123.)

Shows—Admissions tax.

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

LOANS.

See "Building and Loan Associations."

Income taxes.

Interest on securities issued under provisions of Federal farm loan act of July 17, 1916, shall not be included as income. (T. D. 2690; art. 5.)

Where banks or other corporations loan money by discounting bills or notes, one of two methods shall be used in determining amount of discount to be reported as income, namely, (1) if bank or corporation makes practice of crediting discount directly to "discount account" or to profit and loss, total amount thus credited during year shall be considered income, regardless of fact that portion may represent discount paid in advance; (2) if bank or corporation follows practice of crediting discount to "unearned discount account," and later, as discount becomes earned, debits unearned account and credits "earned discount account" with amount so earned, total amount credited to "earned discount account" during year shall be considered income. (T. D. 2690; art. 114.)

In case of banks and banking associations, loan or trust companies, interest paid within year on deposits or on moneys received from investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from gross income of such corporation. (T. D. 2690; art. 190.)

Stamp taxes.

Neither security agreement signed by prospective borrower of bank, empowering bank to apply any securities, money, or other property of borrower in hands of bank to satisfy debt, nor form of application for the loan, is subject to stamp tax imposed by Schedule A of section 807 of act of October 3, 1917. (T. D. 2599; Dec. 3, 1917.)

Transfer of shares or certificates of stock in any association, company, or corporation, made by the person loaning stock to another borrowing such stock to effect a sale, and also transfer of shares or certificates of stock from a borrower returning them to lender, in fulfillment of borrower's obligation to buy in and return stock, are both subject to tax imposed by sections 800 and 807 of the act of October 3, 1917; in so-called short-sale transaction, there are four taxable sales or transfers: (1)Sale of stock by person making short sale, (2) transfer from lender of stock to person making short sale, (3) purchase by borrower of stock to return to lender, (4) transfer by borrower to lender of shares to replace those borrowed. (T. D. 2685; Mar. 30, 1918.)

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LODGES.

Capital stock tax—Exemption.

Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for payment of life, sick, accident, or other benefits to members of such society, order, or association, or their dependents, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2759, art. 12; Aug. 9, 1918.)

Definition.

A society or association "operating under the lodge system" is one organized under a charter or dispensation with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals. (T. D. 2690; art. 77.)

Dues.

Dues or fees are expressly exempt from tax when paid to fraternal beneficiary society, order, or association, operating under the lodge system or for exclusive benefit of members of fraternity itself operating under such system and providing for payment of benefits to members of such society, order, or association, or their dependents; dues or fees paid to fraternal orders not falling within the express exemption are not subject to tax if purposes and practices of order are religious, benevolent, or educational, and any social activities are incidental and subordinate. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Exemptions.

Beneficiary society, order, or association operating under lodge system or for exclusive benefit of members of a fraternity itself operating under lodge system is exempt from tax, without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Society or association "operating under the lodge system," which is exempted under the provisions of the income-tax act, is considered to be one organized under a charter with properly appointed or elected officers with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by dues, fees, or assessments. (T. D. 2690; art. 239.)

Insurance—Exemptions from tax.

Fraternal beneficiary society, order, or association operating under lodge system or for exclusive benefit of members of fraternity itself, operating under lodge system, and providing for payment of life, sick, accident, or other benefits to the members of such society or order or their dependents, is exempt from tax on insurance. (T. D. 2588; Nov. 21, 1917.)

Occupational tax—Pool or billiard tables, etc.

Occupation tax levied by act of September 8, 1916, is applicable to pool or billiard tables and bowling alleys in lodge halls. (T. D. 2462; Feb. 16, 1917.)

LOGGING COMPANIES.

Transporting for hire.

Where a person, corporation, partnership, or association is engaged in logging and for account of himself or itself furnishes any of the services or facilities described or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and at times for hire furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

LOSSES.

Alcohol in transit.

See "Alcohol."

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Distilled spirits.

See "Distilled Spirits."

Net income for income-tax purposes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

LUMBER COMPANIES.

Excise taxes.

The gain on a sale of timber acquired by a lumber manufacturing company before January 1, 1909, and converted into money after that date is income within the meaning of the corporation excise-tax act of 1909, but only such portion of the gain as accrued subsequent to December 31, 1908, is taxable. (T. D. 2723; June 4, 1918. Ct. Dec.)

Income taxes—Net income.

Corporations owning timber land and logging off the timber and manufacturing it into lumber, will if timber was acquired prior to March 1, 1913, be permitted to exclude from gross income either through deduction from gross receipt, or through charge into cost of manufacturing timber into lumber, an amount equivalent to fair market price or value of standing timber as of March 1, 1913; corporations must set up on their books as of March 1, 1913, the fair market price en bloc of all timber then owned by them and then by dividing such value by estimated number of feet in entire holdings per unit value or price will be ascertained, which per unit price or value will be basis for measuring amount to be added to cost of manufacture or deducted from gross income until en bloc value of entire holdings shall have been extinguished; same rule applies to timber or timber lands purchased subsequent to March 1, 1913, only difference being that actual cost shall be substituted for en bloc price or value. (T. D. 2690; art. 173.)

Where entire market price or value for both timber and lands as of March 1, 1913, or entire cost, if acquired subsequent to that date, is extinguished through deduction from gross income for timber used or through per unit charge to cost of manufacturing lumber, entire amount realized from logged-off lands or other salvage will be returned as income of year in which such lands are sold or disposed of; if timber or timber lands are sold en bloc, gain or loss will be ascertained on basis of difference between fair market price or cost and selling price, accordingly as property was acquired prior or subsequent to March 1, 1913. (T. D. 2690; art. 173.)

Fair market price or value of timber lands as of March 1, 1913, is price at which property in its then condition and with circumstances then surrounding it could have been sold for cash or its equivalent; such value must not be speculative, but must be determined without taking into account any prospective profits that may result by manufacturing the timber into lumber; value once determined must be set up on books and as measure of stumpage deduction must remain constant and can not be increased except as new purchases are made at higher average cost; value so set up will be subject to approval of commissioner. (T. D. 2690; art. 173.)

MACHINERY.

Income taxes—Deductions.

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools may be included under this item. (T. D. 2690; art. 4.)

Under paragraph 7 of section 5 (a) of the act of September 8, 1916, there may be claimed a reasonable allowance for depreciation on farm machinery. (T. D. 2690; art. 4.)

Corporations engaged in farming may claim a reasonable allowance for depreciation on farm machinery. (T. D. 2690; art. 123.)

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools of short life or insignificant cost, such as hand tools, including shovels, rakes, etc., may be included under this item. (T. D. 2690; art. 123.)

Loss due to voluntary removal or demolition of old buildings, scrapping of machinery, equipment, etc., incident to renewals and replacements will be deductible, in amount representing difference between cost of such property and amount measuring reasonable allowance for depreciation which property had undergone prior to its demolition or scrapping. (T. D. 2690; art. 155.)

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MAIL.

Estate tax—Notice of excess tax.

"Time of notification," within section 207 of the estate tax law, Title II, act of September 8, 1916, in the date on which notice of the amount of such "excess part of the tax" is received by the executor, whether such notice is given by mail or otherwise. (T. D. 2770; Nov. 6, 1918.)

Income taxes—Mailing returns.

If return is made and placed in the United States mail, properly addressed, and postage paid, in ample time, in due course of mail, to reach office of collector or deputy collector, on or before last due date, no penalty will attach should return not be actually received by such officer until subsequent to that date. (T. D. 2690; art. 52.)

When last due date for filing return falls on Sunday or a legal holiday the last due date will be held to be day following such Sunday or legal holiday and return should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office, under ordinary handling of the mails, on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

Where return is made and placed in United States mails in due course, properly addressed, and postage paid, in ample time to reach office of collector or deputy collector on or before such due date, no penalty attaches should return not be actually received until subsequent to that date; where question is raised as to whether or not return was posted in ample time, envelope in which return was transmitted should be preserved by collector and forwarded to Commissioner of Internal Revenue with the return. (T. D. 2690; art. 220.)

Parcel post—Stamp taxes.

Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

MALT LIQUORS.

See "Fermented Liquors."

MANDAMUS.

Abrogation of regulations.

Writ of mandamus directed to Commissioner of Internal Revenue and Secretary of the Treasury of the United States is not the proper remedy to abrogate a regulation (T. D. 2309; Mar. 11, 1916), issued under authority of act of December 17, 1914, popularly known as Harrison Narcotic Law, to carry into effect the provisions of section 6 of such act, which regulation was issued in the exercise of official discretion. (T. D. 2489; May 11, 1917. Ct. Dec.)

MANUFACTURERS.

Alcoholic compounds.

See "Alcohol."

Beverages.

See "Beverages."

Cigars, cigarettes, etc.

See "Cigars"; "Cigarettes"; "Snuff"; "Tobacco."

Definition.

A "manufacturer" within Regulations No. 44, relating to war excise taxes, is a person who prepares an article in final marketable form and sells or markets it; if goods partly manufactured by one person are further manufactured by another before being marketed to consumers for use, latter is manufacturer for purpose of tax; a retailer may be also a manufacturer. (T. D. 2719; Art. II.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a maufacturer or producer is a person who prepares an article or has it prepared and sells it, and who

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Definition—Continued.

identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art. XXI.)

Excise taxes.

See "Excise Taxes"; "Munition Manufacturers' Tax."

Extracts.

See "Extracts."

Medicinal preparations.

See "Medicinal Preparations."

Oleomargarine.

See "Oleomargarine."

Playing cards—Stamp taxes.

See "Playing Cards."

War excise taxes on sales of commodities.

See "Excise Taxes."

MARINE INSURANCE.

See "Insurance."

MARKS AND BRANDS.

Alcohol.

Steel drums and packages, without wooden heads or lead plates, may be used as containers for denatured alcohol, provided that in case of specially denatured alcohol one end of each such package is painted yellow, upon which painted end required marks and brands shall be stenciled and stamps affixed; stamps required to be protected with coating of shellac or varnish impervious to water; packages intended to contain completely denatured alcohol are to be painted light green color; articles 36 and 37 of Regulations No. 30 modified. (T. D. 2824; Apr. 22, 1919.)

Carbonic acid gas.

In all cases of sales of carbonic acid gas for use other than in manufacture of carbonated water or other drinks, manufacturer must prominently stamp on or affix to the container a warning, as follows: "Federal tax not paid. Unlawful to use in the manufacture of beverages." (T. D. 2719; Art. XXXV.)

Distilled spirits.

Article No. 34, Regulations No. 23, revised December 21, 1912, amended so as to permit serial numbers of cases which are to contain spirits bottled in bond for domestic purposes, to be stenciled thereon in black letters instead of being burned, imprinted, or embossed. (T. D. 2419; Dec. 20, 1916.)

Marks and brands imprinted or embossed on a loose sheet to be attached to "Government side" of case permitted, provided that suitable paste or glue is used which will protect the loose sheet, after it has been attached to the case, from the effects of moisture. (T. D. 2492; May 28, 1917.)

All products of rectification from molasses, spirits, or spirits other than grain at rectifying houses, must be marked and branded in the same manner as spirits derived from grain. (T. D. 2548, 2560; Oct. 4, 1917.)

Metal packages for containing distilled spirits for export not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided the required marks are stenciled on the heads by use of permanent stenciling material. (T. D. 2822; Apr. 19, 1919.)

Metal packages for containing nonbeverage distilled spirits for domestic use are not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided that marks are stenciled on heads by use of permanent stenciling material. (T. D. 2894; July 21, 1919.)

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Excess profits tax—Invested capital.

If good will, trade-marks, trade brands, franchises of a corporation or partnership, or other intangible property has been purchased with stock or shares issued prior to March 3, 1917, amount that may be included in invested capital must not exceed 20 per cent of par value of total stock or shares outstanding on that date, nor actual value of asset at date acquired, nor par value of stock issued in payment for the asset. (T. D. 2694; art. 57.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property. (T. D. 2694; art. 66.)

Patents and copyrights, and good will, trade-marks, trade brands, franchises, and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

Income taxes—Net income.

No deduction will be allowed for depreciation of trade-marks and trade brands; if such assets shall have been purchased at a determined price and shall be later sold at a price less than cost or less than their determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such assets were sold. (T. D. 2690; art. 168.)

Oleomargarine.

Manufacturers permitted to use as original containers for packing oleomargarine, paper or fiber boxes, provided boxes are durable and of substantial character; provisions of existing regulations governing marking and branding and affixing and canceling of tax-paid stamps declared applicable to original packages of paper or fiber, except that such stamps may be affixed by paste or glue, without addition of tacks, staples, or brads, and without using shellac or other waterproofing material to cover the stamps; such original containers to be of such texture as will meet requirements for transportation of common carriers under existing classifications; manufacturers and wholesalers permitted to sell only in original packages, and retailers must sell only from original stamped package in quantities not exceeding 10 pounds and shall pack oleomargarine sold by them in suitable wood or paper retail packages properly marked and branded; par. 1, page 44, Regulations No. 9, amended. (T. D. 2764; Oct. 21, 1918. T. D. 2774; Nov. 19, 1918.)

Paragraph 1, page 42, Regulations No. 9, relative to affixing caution notices, Form 219, to original oleomargarine containers, modified to permit of such notices being printed on the container, instead of affixing such notices by means of a label; modification is not mandatory, and manufacturers may adopt either of the approved methods of affixing said labels as meets their convenience. (T. D. 2968; Feb. 4, 1920. T. D. 3025; June 2, 1920.)

Wines.

All packages or cases containing wines for export must be plainly marked or tagged for identification, and such identifying marks must contain the words "For export," in letters not less than two inches in height. (T. D. 2505; June 25, 1917.)

All casks, tanks, or cases of wine, fortified under act of September 8, 1916, removed from bonded premises, must be conspicuously marked or labeled with following legend in addition to information called for by Regulations No. 28, Supplement 2, article 10: "Fortified under act September 8, 1916"; such marks or labels should be in reasonable proportion to size of container, and label must be pasted to container, and secured thereto by tacks; where such wine is transferred to other containers new containers must also bear similar legend. (T. D. 2629; Jan. 7, 1918.)

MARKET PRODUCE.

Capital stock tax on sales organization.

Tax imposed by act September 8, 1916, does not apply to farmers', fruit growers', or like association, organized and operated as a sales agent for purpose of marketing products of its members and turning back to them proceeds of sales, less necessary selling expenses, on basis of quantity of produce furnished by them. (T. D. 2750, art. 12; Aug. 9, 1918.)

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Excise tax on boats.

Boats used to carry produce to market are used exclusively for trade and are not subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

MARRIED WOMEN.

See "Husband and Wife."

MASSACHUSETTS TRUSTS.

Capital stock tax.

So-called Massachusetts trusts are subject to tax imposed by act September 8, 1916. (T. D. 2750, art. 2; Appendix A; Aug. 9, 1918.)

Income taxes.

Organization under constitution of which individuals who are beneficially interested in various proportions in same property and hold assignable certificates representing their different interests therein, but who can claim no part of income of property as their income as distinguished from income of organization, commit control and management of such property, for profit, to trustees, free from their own immediate control or interference, except that they may act by majority in amount and interest for purpose of allowing extra compensation to trustees, filling vacancies in office of trustees or modifying terms of declaration of trust, is an "association" and taxable as such under Section II, G (a), of act October 3, 1913. (T. D. 2720; June 4, 1918. Ct. Dec.)

Where trustees hold shares of stock of a corporation and real estate subject to a lease, collecting the dividends and rents, but otherwise doing no business, and distribute the income less taxes and similar expenses to the holders of their receipt certificates, who have no control except the right of filling a vacancy among the trustees and of consenting to a modification of the terms of the trust, upon these special facts under the act of October 3, 1913, the trust is not subject to the income tax as a joint-stock association, and the trustees and the cestui que trust are to be treated as fiduciaries and beneficiaries for purposes of taxation. (T. D. 2816; Apr. 2, 1919. Ct. Dec.)

Stamp tax on certificates of shares.

Tax imposed by act October 3, 1917, on issue or transfer of capital stock applies to issue or transfer of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

MASTER AND SERVANT.

Admission of employees.

Bona fide employees when admitted free are not taxable under section 700 of act of October 3, 1917; employees include persons necessary to the production of the performance or entertainment who are not admitted as spectators and who do not occupy seats or space intended for the use of spectators, except where such occupancy is necessary to the performance of duties of such persons; baseball reporters and telegraphers are exempt, as are employees of management or of concessionaires selling refreshments to patrons, and newsboys selling newspapers; persons recovering or aiding in custody of property necessary to performance may be admitted tax free, but newspaper critics and reporters occupying space in audience must pay tax; doctors and attorneys for theaters are exempt when entering theater in course of employment. (T. D. 2681; Mar. 26, 1918.)

Contracts for services—Stamp tax.

Contracts for performance of services are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Fidelity insurance.

See "Insurance."

Government employees—Exemption of charges for services furnished by carriers.

See "Transportation Tax."

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Income tax—Accident compensation.

Payments made to injured employee by corporation under the accident compensation laws of the several States constitute taxable income of the employee. (T. D. 2570; Nov. 6, 1917.)

—— Compensation for services.

Compensation for service paid for on percentage of net profits is income to employee and must be accounted for as such; where service is rendered for stipulated price, wage, or salary, and paid with something other than money, stipulated value of service in terms of money is value at which thing taken in payment is to be considered for purpose of tax; in absence of stipulation as to value of service, payment being made with something other than money, market or reasonable value of thing taken in payment is amount to be included as income. (T. D. 2690; art. 4.)

In case of compensation for service, where no determination of compensation is had until completion of service, amount received is income to be accounted for as for calendar year of receipt; where service and payment period is divided by end of taxable year, compensation for period so divided will be accounted for as income for year in which payment is actually received; where compensation is by fee or is of such nature that no part of fee or compensation becomes due until completion of service, entire amount received should be accounted for as for year of receipt; person having salary by the year and in addition commissions on sales, salary to be paid at time commissions are determined, and determination thereof is in succeeding calendar year, entire amount should be accounted for as income of calendar year of receipt. (T. D. 2690; art. 4.)

—— Deductions.

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Amounts paid for salary received for all services rendered are deductible as business expense when expenditures are occasioned by the service in respect of which salary is paid. (T. D. 2690; art. 8.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered; if, when added to salaries, they do not exceed reasonable compensation for services, they will be regarded as part of the wage or hire, and therefore an ordinary and necessary expense of operation and maintenance, and as such will be deductible. (T. D. 2690; art. 8.)

Debts arising from unpaid wages, salary, rents, and items of similar taxable income, not allowed as deduction unless income they represent has been included in return of gross income for year in which deduction as bad debt is sought to be made or in previous year, and debts themselves have been actually ascertained to be worthless and charged off. (T. D. 2690; art. 8.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships to nonresident alien employees for services rendered entirely in a foreign country and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art. 32.)

Donations made for purposes connected with operation of property when limited to charitable institutions, hospitals, or educational institutions, conducted for benefit of employees or their dependents, may be deducted as ordinary and necessary expense; such deduction should, however, be reduced by any amount repaid to corporation by the employees. (T. D. 2690; art. 134.)

Donations made to employees and others, and which do not have in them the element of compensation, are considered gratuities and are not allowable deductions from gross income as expenses of operation or maintenance or under any other item. (T. D. 2690; art. 135.)

Amounts paid for pensions to retired employees or to their families or others dependent on them, or on account of injuries received by employees, or lump-sum amounts paid as compensation for injuries, are proper deductions as ordinary and

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Income tax—Continued.

—— Deductions—Continued.

necessary expenses; such deduction shall be limited to amount not compensated for by insurance or otherwise; no deduction shall be made for contributions to pension fund resources of which are held by corporation, amount deductible in such case being amount actually paid to employee. (T. D. 2690; art. 136.)

When amount of salary of officer or employee is paid for limited period after his death to his widow or heirs in recognition of services rendered by individual, no services being rendered by widow or heirs, such payment is not ordinary and necessary expense of transacting business and may not be deducted. (T. D. 2690; art. 137.)

Gifts or bonuses to employees constitute allowable deductions when made in good faith and as additional compensation for services actually rendered by employees; if, when added to stipulated salaries, they do not exceed a reasonable compensation for services rendered, they will be regarded as a part of the wage or hire of the employee and are deductible as an ordinary and necessary expense of operation and maintenance. (T. D. 2690; art. 138.)

Where salaries of officers or employees who are stockholders are found to be out of proportion to volume of business transacted or excessive when compared with salaries of like officers or employees of other corporations doing similar kind or volume of business, amount so paid in excess of reasonable compensation for services will not be deductible, but will be treated as distribution of profits. (T. D. 2690; art. 138.)

Special payments made to officers or employees who are stockholders, in guise of additional salaries or compensation, amount of which is based upon or bears close relationship to stockholdings of such officers or employees, or capital invested by them in business of company, will be regarded as special distribution of profits or compensation for capital invested, and not payment for services rendered; payments under such latter conditions, being in nature of dividends, will not be deductible. (T. D. 2690; art. 138.)

Compensation paid employee in capital stock of corporation may be deducted as expense if so charged on books at actual value of such stock. (T. D. 2690; art. 139.)

Premiums paid on life-insurance policies covering lives of officers, employees, or those financially interested in any trade or business, conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing net income of insurance companies other than mutuals, but including mutual life and mutual marine. (T. D. 2690; art. 240.)

In cases of compensation fixed after services are rendered and not in accordance with any contract or any custom or practice amounting virtually to a contract, reasonableness is ordinarily the controlling test of deductibility. (T. D. 2696; Apr. 10, 1918.)

Test of deductibility in case of compensation payments is whether they are in fact payments purely for services or include some other element; in case of any compensation which exceeds amounts ordinarily paid for like services in like enterprises under like circumstances, burden is upon enterprise to show that amount paid was solely purchase price of services; this test and its particular application further stated and illustrated. (T. D. 2696; Apr. 10, 1918.

Compensation greater than that ordinarily paid for like services in similar enterprises must be shown to represent payment for services only. (T. D. 2696; Apr. 10, 1918.)

Compensation on whatever basis fixed, representing only the price paid for services pursuant to a fair bargain made in advance between the individual and the business enterprise, is deductible in determining taxable net income of the enterprise. (T. D. 2696; Apr. 10, 1918.)

Payments nominally as compensation for services, which in fact include amounts paid as dividends, waste of corporate assets, payments for property, or for anything other than services, are deductible only to an amount not in excess of compensation for like services in similar enterprises. (T. D. 2696; Apr. 10, 1918.)

—— Information at source.

Bills paid to employees for board and lodging while traveling under orders or when employee is employed on a salary basis, do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Payments made by branches of business houses located in foreign countries to alien employees serving in foreign countries need not be reported. (T. D. 2670; Mar. 11, 1918.)

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Income tax—Continued.

—— Information at source—Continued.

Payments made to employees in factories where the brass check or number system was in use in 1917 and a record of sufficient detail does not exist and can not be obtained because employees are not longer in the employ of the company do not require reports of information; in all such cases an accounting system must be installed that will enable such employers to keep an accurate check so that full information can be given in the future. (T. D. 2670; Mar. 11, 1918.)

Returns of information will not be required from disbursing officers of payment made to civilian employees of the United States Government. (T. D. 2670; Mar. 11, 1918.)

Heads of branch offices and subcontractors employing labor and keeping the only complete record of payments should file returns of information direct with Commissioner of Internal Revenue, Sorting Division, Washington, D. C.; when record is kept of payments at both main office and branch office return should be filed by former; when no address is available, last known post-office address must be given, as well as street and number, when possible; information as to whether employee is single, head of a family, or married, should be given, when possible. (T. D. 2670; Mar. 11, 1918.)

When living quarters, such as camps, are furnished for the convenience of the employer only, the cost need not be added to the compensation of the employee; "living quarters" referred to in paragraph 235, Regulations No. 33, revised, are quarters furnished for the benefit and convenience of employees only. (T. D. 2670; Mar. 11, 1918.)

In case of employer having large number of employees who are moved from place to place and who consequently has no complete record of annual payments to them at any one place, salary of two representative months may be taken to establish a fair monthly wage, and unless yearly payment based on this estimate in the case of an employee amounts to $800 or more no return of payments to such employee is required for 1917. (T. D. 2670; Mar. 11, 1918.)

Salary, wages, and other compensation for sergices rendered in December, 1917, but paid in 1918, need not be reported unless the amount was fully due and passed to the credit of the individual in December, 1917. (T. D. 2670; Mar. 11, 1918.)

Every person, corporation, etc., paying compensation, wages, etc., of $800 or more in any taxable year, or in case of such payment made by the United States the officers or employees of the United States having information as to such payments, authorized and required to render true and accurate return, setting forth the amount of such compensation, wages, etc., and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Where a person receives a cash compensation for services rendered and in addition thereto living quarters, the value to such person of the quarters furnished constitutes income subject to tax, and return under section 28 is required in each case where cash compensation received plus the value of living quarters furnished equals or exceeds $800 for a tax year. (T. D. 2690; art. 34.)

MEDICINAL PREPARATIONS.

Alcohol—Exemption from special tax.

Alcoholic solutions of Jamaica ginger must always be made in accordance with the process and comply with standards of the U. S. P. (T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

Manufacturers of preparations in which sole medication is salt of iron will not, with certain stated exceptions, be considered entitled to use alcohol without paying special tax; use of alcohol in conformity with prescribed standard is permitted in compounding preparations containing peptonate of iron and in manufacture of preparations corresponding in strength of iron to vinum ferri N. F.; inclusion of fermentable but nonmedicinal material in preparation not otherwise requiring alcohol will not be regarded as sufficient reason for using it. (T. D. 2760; Oct. 9, 1918.)

Manufacturer can not escape liability to special tax by showing that given quantity of drugs was used; burden is on him to see that finished product does, in fact, conform to prescribed standard, and statements that ingradients of low quality were inadvertently used or that full strength was through some defect in process of manufacture not extracted, will not be accepted as sufficient to relieve manufacturer from liability in case preparation is insufficiently medicated. (T. D. 2760; Oct. 9, 1918.)

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Alcohol—Exemption from special tax—Continued.

Preparations such as aromatic elixirs, tincture of aromatica, and similar preparations used by physicians and pharmacists principally as vehicles, even though potable, may be sold in good faith for legitimate uses without payment of special tax, provided they are made in conformity with U. S. P. or N. F. (T. D. 2760; Oct. 9, 1918.)

For manufacturer of and dealers in alcoholic medicinal compounds to be exempt from special tax under section 3246, Revised Statutes, preparation must contain no more alcohol than is necessary for legitimate purposes of extraction, solution, or preservation, and as a minimum dosage each liquid ounce of completed preparation must carry in it approximately an average dose for adult of some drug or drugs of recognized therapeutic value, either singly or in compatible combination. (T. D. 2760; Oct. 9, 1918. T. D. 2767; Nov. 2, 1918.)

—— **Exports.**

Where alcohol is used in the manufacture of medicinal preparations for export, drawback thereon should include both tax of $1.10 per proof gallon and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

—— **Nonbeverage alcohol.**

So-called nonbeverage alcohol taxable at rate of $2.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of prescription compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Such United States Pharmacopœia or National Formulary preparations as aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Homeopathic pharmacists, in order to obtain and use nonbeverage alcohol in manufacture of potencies, attenuations, or dilutions, or sell the same, required to make application and obtain permit and give bond in same manner as any other user or dealer in nonbeverage alcohol (see T. D. 2559 and T. D. 2576); such pharmacists in order to obtain and use nonbeverage alcohol must under any circumstances qualify by filing bond and obtaining permit regardless of manufacture and sale of the dilutions. (T. D. 2699; Apr. 16, 1918.)

Every physician or other person desiring to purchase or use homeopathic attenuations, potencies, or dilutions, or nonbeverage alcohol for making same must qualify by filing bond and obtaining permit except that homeopathic physician or any other person may obtain from pharmacist not exceeding 2 drachms of any attenuation, etc., at one time without filing bond and obtaining permit; physician may dispense such attenuations, etc., in quantities ordinarily prescribed to patients, and such patients need not file bonds or hold permits. (T. D. 2699; Apr. 16, 1918.)

Persons who use nonbeverage alcohol must first comply with preliminary requirements of laws pertaining to same and regulations issued in pursuance thereof; use of nonbeverage alcohol for manufacture of medicinal preparations, flavoring extracts, etc., is permitted only under same conditions and subject to same restrictions as govern manufacture and sale of same preparations without payment of special tax. (T. D. 2760; Oct. 9, 1918.)

Where nonbeverage alcohol is used in manufacture of U. S. P. or N. F. preparations, such as aromatic elixirs, tincture of aromatica, etc., container must bear label upon which shall appear prescribed statement. (T. D. 2760; Oct. 9, 1918.)

Beverages.

Cauffman's ginger brandy not taxed as a proprietary medicine though label shows medicinal claims; being an alcoholic compound beverage, only alcohol tax paid at the rate of $3.25 per gallon may be used in compounding it and no distilled spirits fermented after 11 o'clock p. m. of September 8, 1917, may be used in its manufacture; tax of 15 per cent per proof gallon required on all compound in possession of rectifier on October 4, 1917, or thereafter produced; additional floor tax on product must be paid after inventory and return in same manner as floor taxes on distilled spirits. (T. D. 2536; Oct. 13, 1917.)

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Beverages—Continued.

Where any preparation containing more than one-half of one per cent of alcohol by volume, whether sold as medicine or flavoring extract or in any other manner, does not conform to required standard, liability will be asserted to tax at beverage rate on alcohol used; similar action will be taken in case of preparation made in conformity with such standard if sold by a manufacturer for beverage purposes. (T. D. 2760; Oct. 9, 1918.)

Persons who manufacture or deal in alcoholic medicinal preparations, flavoring extracts, etc., even though made in accordance with standards prescribed, are only relieved from special tax liability so long as they make sales for legitimate purposes only; if preparation containing more than one-half of one per cent of alcohol by volume is sold for beverage purposes or under circumstances warranting reasonable belief that it is to be used as a beverage, liability to tax will be asserted regardless of what other ingredients preparation may contain. (T. D. 2760; Oct. 9, 1918.)

Cigarette tubes.

Closed-end tubes, used in the preparation of catarrh and asthma remedies, are not taxable as "cigarette tubes." (T. D. 2570; Nov. 6, 1917.)

Definition.

A medicinal preparation is a preparation of any substance whatever intended to be applied for the cure or mitigation of pain or disease. (T. D. 2719; Art. XXII.)

Distilled spirits.

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

The sale or use of medicinal extracts made with nonbeverage distilled spirits for beverage purposes or for manufacture into beverages is illegal. (T. D. 2559; Oct. 26, 1917.)

Use of distilled spirits for nonbeverage purposes includes manufacture of bona fide United States Pharmacopœia or National Formulary medicinal extracts. (T. D. 2559; Oct. 26, 1917.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Excise taxes—Articles included.

The word "medicinal" is applicable to any substance adapted to cure or alleviate disease or pain; accordingly, a medicinal preparation is a preparation of any substance whatever intended to be applied for the cure or mitigation of pain or disease; many articles or substances which are not usually considered as belonging to materia medica may become taxable medicinal preparations by being held out or advertised as remedies for diseases affecting the human or animal body. (T. D. 2719; Art. XXII.)

—— Boric acid.

Boric acid when sold under a trade-mark as a medicinal preparation is taxable under section 600 (h) of act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— Food preparations.

Food preparations as distinguished from medicinal preparations are not taxable under section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— "Held out or recommended."

"Held out or recommended," as used in section 600 (h) of the act of October 3, 1917, includes representation by any means, personal canvass and statements on the labels, in pamphlets, or advertisements, or otherwise; a holding out or recommendation intended for physicians only is a holding out to the public. (T. D. 2719; Art. XXI.)

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Excise taxes—Continued.

—— "Held out or recommended"—Continued.

Medicinal preparation held out or recommended as proprietary or as a remedy or specific for disease is taxable, (a) even if sold, in first instance, only to physicians and druggists, (b) even if a "bacterin," and (c) even if an uncompounded natural substance merely dried or refined. (T. D. 2785; Jan. 23, 1919.)

—— Licorice.

Licorice put up in sticks, lozenges, or in other forms suitable for medicinal purposes and sold under a trade-mark is subject to the tax imposed by section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— Manner in which prepared.

Tax applies to medicinal preparation held out by producer to the public as a proprietary medicine or as a remedy for disease, although it is prepared by a process which merely refines a natural substance. (T. D. 2719; Art. XXII.)

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

—— Manufacturer.

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark. or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art. XXI.)

If article or its container has on it both a trade-mark or trade name of one manufacturer, and the individual or business name of another, the owner of the trade-mark or trade name will be deemed the manufacturer; if the article or its container has on it both the commercial name of the article and an individual or business name, the latter will be deemed to designate the manufacturer. (T. D. 2719; Art. XXI.)

A person who is employed to make an article and receives for it the cost of materials and labor, plus specified profit, shall be considered a manufacturing agent, and the person who procures the preparation of the article will be considered the manufacturer. (T. D. 2719; Art. XXI.)

Where the owner of a formula contracts with a manufacturer to prepare an article according to such formula and to deliver it to him in complete, salable form, the labels bearing the formula owner's name, he is considered the manufacturer. (T. D. 2719; Art. XXI.)

A person who bottles or otherwise prepares an article, and merely for advertising purposes places on such article the name of any dealer who may handle it, shall be deemed manufacturer if names of both persons appear, but if only the dealer's name appears he shall be deemed the manufacturer. (T. D. 2719; Art. XXI.)

—— Printing on labels, etc.

Printing on labels the directions and indications for use, dosage, and other similar matter, will not alone render preparations made under a standard formula taxable, provided preparation is not held out or recommended as a proprietary preparation or as a remedy or specific; where medicinal preparations are sold under labels which do not indicate that the formula is published they will be considered to be prepared under private formulas, unless proof is submitted that the formula is not secret. (T. D. 2719; Art. XXII.)

Autographic name of manufacturer of medicinal preparation printed across middle of label does not amount to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

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Excise taxes—Continued.

—— **Printing on labels, etc.**—Continued.

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

—— **Rate of tax.**

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer, provided that (1) the manufacturer claims to have any private formula, secret or occult art for making or preparing them; or (2) the manufacturer has or claims to have any exclusive right or title to making or preparing them; or (3) they are prepared uttered, vended, or exposed for sale under any letters patent or trade-mark; or (4) they are held out or recommended to the public by the makers, venders, or proprietors thereof, either (a) as proprietary medicines or medicinal proprietary articles or preparations, or (b) as remedies or specifics for any disease or affection whatever affecting the human or animal body. (T. D. 2719; Art. XIX.)

—— **Scope of tax.**

Every medicinal preparation, compound, or composition embraced within one or more of the subdivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

—— **Trade-mark or name.**

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, is a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label is not a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, is not of itself a trade-mark under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

—— **Waters.**

Artificial mineral waters, not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

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Liniments—Denatured alcohol.

Alcohol denatured according to stated formula may be used in the manufacture of soap liniment (U. S. P.), chloroform liniment (U. S. P.), liniment of soft soap, and green soap when manufactured in accordance with standards of United States Pharmacopœia with exception that products will contain camphor and rosemary; denaturant may be used only in central denaturing and distilling plant of industrial character as established under subsection 2, of paragraph N, of section 4, of the act of October 3, 1913, and supplement No. 2 to Regulations No. 30; samples of liniment of soft soap and green soap required to be submitted together with formula, before bond is approved; permission for use of special denaturants must be obtained. (T. D. 2465; Mar. 24, 1917.)

Formula, designated as No. 23, for special denaturation of alcohol to be used in manufacture of liniment, stated; formula not to be used in central denaturing bonded warehouses or distillery denaturing bonded warehouses, but use authorized for denaturation of alcohol in central distilling and denaturing plants; permission required to use special denaturant in any central distilling and denaturing plant, as provided in articles 2 and 19, of supplement No. 2 to Regulations 30. (T. D. 2379; Oct. 6, 1916.)

Narcotics.

See "Narcotics."[21]

Wines.

Any domestic wines may be used in manufacture of medicinal preparations provided no distilled spirits are added. (T. D. 2387; Oct. 30, 1916.)

MERCANTILE CORPORATIONS.

Income taxes—Gross income.

Gross income of mercantile companies, for purpose of returns, shall consist of total sales plus inventory at end of year, less sum of cost of goods purchased during year and inventory at beginning of year; to amount of income thus ascertained should be added the income, gains, or profits derived from all other sources; all sales made during year, whether compensated for by accounts receivable, bills receivable, cash, or other property at a determined cash value, must be included, in gross income of year in which sales were made. (T. D. 2690; art. 92.)

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918.) Affirmed, T. D. 2744; July 11, 1918.

MERGER.

Corporations—Stamp tax—Issue of stock.

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

—— Transfer of stock.

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock law, providing for merger of ordinary corporations, acquisitions, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Trust companies—Stamp tax—Issue of stock.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York banking law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752; Aug. 14, 1918.)

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Trust companies—Continued.

—— Transfer of stock.

Tax imposed by act October 3, 1917, on transfers of stock, does not attach to exchange of stock certificates of merged corporation for stock certificate of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for old certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

MESSAGES.

Radio.

See "Radio Messages."

Telegraph or telephone.

See "Telegraphs and Telephones."

METHYL ALCOHOL.

See "Alcohol."

MILEAGE BOOKS.

Passenger transportation.

Provision of subdivision (c) of section 500 of act of October 3, 1917, relating to mileage books, applies whether book was purchased in United States, Canada, or Mexico; manner of reporting and returning amounts collected; if book sold in United States prior to November 1, 1917, be presented for exchange ticket or on train for transportation, tax applies on sale value of coupons or scrip remaining in book, and shall be collected by employee to whom book is presented; 8 per cent tax applies to gross amount paid for book purchased on or after November 1, 1917, as and when collection is made therefor, and if evidence of right to exemption be delivered to carrier at time of purchase, book shall be stamped "Tax not paid"; when tax applies, and when it does not apply, to amount paid for coupons lifted from mileage books purchased in Canada or Mexico, stated. (T. D. 2676; Mar. 18, 1918.)

MILITARY SERVICE.

See "Army and Navy."

MILK.

Income taxes—Cooperative dairy associations.

Cooperative dairy companies or associations, not having capital stock and engaged in collecting milk and disposing of same or products thereof, and distributing proceeds of business, less necessary operating expenses, among their patrons, upon basis of quantity of butter-fat in milk furnished by such patrons, are exempt from tax; if company purchases milk at stipulated price and disposes of same, or its products, at a profit, and such profit inures to benefit of company or its members, on any basis other than butter-fat content of milk furnished, such company will come within requirements of law and will be subject to tax. (T D. 2690; art. 76.)

—— Returns of dairy farmers.

See "Farmers."

Transportation charges.

The amounts paid for transportation, other than by express, of milk, are subject to the tax of 3 per cent; whenever two or more tickets for transportation are sold in book form or in bulk, tax applies to aggregate amount paid for tickets so purchased. (T. D. 2676; Mar. 18, 1918.)

MINES AND MINING.

Capital stock tax—"Engaged in business."

Corporations engaged in mining are "engaged in business" and are subject to tax imposed by section 407 of the act of September 8, 1916. (T. D. 2418; Dec. 15, 1916.)

Company organized for purpose of owning, developing, and speculating in mining land or other real property is engaged in business and is subject to capital stock tax imposed under section 407 of act of September 8, 1916. (T. D. 2457; Mar. 14, 1917.)

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Excise taxes—Depreciation and depletion.

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

Lessee of mining property may not deduct proportionate value of ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct proportionate part of royalty paid in advance. (T. D. 2721; June 4, 1918. Ct. Dec.)

Iron ore leases under consideration in case of United States *v.* Biwabik Mining Co., decided by the Supreme Court of the United States, held not to be conveyances of ore in place, but to be grants of privilege of entering upon, discovering, and developing and removing the minerals from the land (Sargent Land Co. case, 242 U. S. 503, followed). (T. D. 2721; June 4, 1918. Ct. Dec.)

In ascertainment of net income under the corporation excise-tax act of 1909 mining corporation is not entitled to deduction against gross proceeds from the mining and treatment of ores to the extent of the gross value of the ore in the ground before it was mined, ascertained in compliance with T. D. 1675. (T. D. 2722; June 4, 1918. Ct. Dec.)

For purpose of determining net income for basis of taxation under the corporation excise-tax act of 1909, mining corporation may not deduct from its gross income any amount whatever on account of depletion or exhaustion of ore bodies caused by its operations for year for which tax is assessed. (T. D. 2722; June 4, 1918. Ct. Dec.)

Income taxes—Depreciation and depletion of gas and oil properties.

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

In case of lessee capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel, etc., in connection with drilling of wells and further development of property may be at option of operator deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

In case of operating fee owner amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date, or actual cost of property if acquired subsequent to that date, plus, in either case, cost of development (other than cost of physical property incident to such development) up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will

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Income taxes—Depreciation and depletion of gas and oil properties—Con.

be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be new revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at time value was fixed or property was acquired or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690 art. 170.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited as amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account with respct to this property and capital invested therein will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

Estimate, subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient when multiplied by number of units removed from territory in one year, will determine amount which will be allowably deducted from gross income for that year on account of depletion or as return of invested capital until total of such deductions shall equal capital invested. (T. D. 2690; art. 170.)

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

—— Depreciation and depletion of ore properties.

When corporation sets aside part of its earnings to create sinking fund with which to retire indebtedness, annual additions to such fund are not allowable deduction from gross income or as or in lieu of depreciation or on any other account; earnings thus set aside are an asset and any accretion thereto must be accounted for as income; ruling will not, however, forbid deduction or reasonable allowance for depletion of natural deposits even though amount so deducted be used in whole or in part in payment of its indebtedness. (T. D. 2690; art. 166.)

Ownership of mine content at time for which computation is made is an essential prerequisite to an allowable deduction for depletion, under section 5 (a) and section 12 (a) of Title I of the act of September 8, 1916, as amended; deduction in case of lessee limited to amount equal to capital actually invested in lease without regard to value as of March 1, 1913, or any other date; the seventh and eighth paragraphs of section 5 (a) and the second paragraph of section 12 (a) authorize in case of mine own-

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Income taxes—Continued.

—— Depreciation and depletion of ore properties—Continued.

ers two classes of deductions to take care of wasting of assets, namely, depreciation and depletion. (T. D. 2690; art. 171.)

Both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depletion reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

Original cost of mineral deposit may be taken as basis for computing annual depletion deductions if fair market value as of March 1, 1913, can not be ascertained otherwise, allowance being made for minerals which may have been removed prior to that date; where property was acquired subsequent to that date, same rule for computing annual depletion deduction will apply, except that basis of computation will be actual cost rather than value as of March 1, 1913. (T. D. 2690; art. 172.)

Every individual or corporation claiming and making deduction for depletion of natural deposits shall keep accurate ledger account, in which shall be charged fair market value as of March 1, 1913, or cost, if property was acquired subsequent to that date, of mineral deposits involved, account to be credited with amount of depletion deduction claimed and allowed each year, or amount of depletion shall be credited to depletion reserve account, to end that when sum of credits for depletion equals value or cost of property, no further deduction for depletion will be allowed; fair market value or cost of property, as case may be, will be basis for determining depletion deduction for all subsequent years during ownership under which value was fixed, and during such ownership there may be no revaluation if it should be found that estimated quantity of deposit was understated; where quantity of mineral deposit prior to March 1, 1913, can not be accurately estimated, necessary, if depletion deductions are to be taken, for owner of deposits, with best information available, to arrive at fair market value of property as of March 1, 1913, which value during period of ownership shall be final; then, on basis of most probable number of units in property, per unit value shall be determined as basis for computing annual depletion allowances; this method and allowances to be continued until, but not beyond, time when value as of March 1, 1913, shall have been extinguished. (T. D. 2690; art. 172.)

Where property was acquired by purchase or otherwise (other than by lease) prior to March 1, 1913, amount of invested capital which may be extinguished through annual depletion deductions from gross income will be the market value of mine property so acquired, as of March 1, 1913; value contemplated as basis for depletion deductions must not be based upon assumed salable value of output under current operative conditions, less cost of production, for reason that value so determined would comprehend profits to be realized from operation of property; value must not be speculative but must be determined upon basis of salable value en bloc as of March 1, 1913, of entire deposit of minerals, exclusive of improvements and development work; en bloc value having been ascertained, estimate of number of units (tons, pounds, etc.) should be made, and en bloc value divided by estimated number of units will be determined per unit value, which, multiplied by number of units mined and sold during any one year will determine sum which will constitute deduction of that year; deductions computed on like basis may be made from year to year during ownership under which value was determined until aggregate en bloc value as of March 1, 1913, of mine or mineral deposit shall have been extinguished. (T. D. 2690; art. 172.)

Precise manner in which estimated fair market value of mineral deposits, as of March 1, 1913, shall be made, must be determined by owner upon such basis as must not comprehend any operating profits, estimate to be subject to approval of Commissioner; in passing upon accuracy and fairness of estimate due weight to market value of stock of corporation on March 1, 1913, and also to sworn statements as to value of stock filed at any time thereafter for purposes of special excise tax based on value of capital stock imposed by Title I of the act of September 8, 1916, will be attached. (T. D. 2690; art. 172.)

Where depletion deduction is computed on basis of cost or price at which any mine, mineral lands or properties were acquired, corporation upon request of commissioner must show that cost or price at which propery was bought was fixed for purposes of bona fide purchase or sale by which property passed to owner in fact as well as in form, different from vendor; in determining whether or not price or cost at which any purchase or sale was made represented actual market value, due

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Income taxes—Continued.

—— **Depreciation and depletion of ore properties**—Continued.

weight will be given to relationship or connection existing between party or parties selling property and buyer thereof. (T. D. 2690; art. 172.)

Lessee corporation not entitled to any deduction as such, but if lessee, in addition to royalties, pays stipulated sum for right to explore, develop, and operate mine, such sum may be spread ratably over estimated number of units in mine, and thus ascertain amount of invested capital or bonus payment applicable to each unit; per unit cost thus ascertained will be multiplied by number of units removed from mine during any one year, and result will be amount that may be deducted from gross income of that year as return of capital invested; in case of both mine owner and lessee, no deduction for depletion or return of capital will be allowed when invested capital has, through the aggregate of all such deductions, been extinguished; for purpose of computing this deduction in case of lessee company actual amount of bonus paid and not value as of March 1, 1913, will be considered capital invested to be returned through aggregate of annual deductions. (T. D. 2690; art. 172.)

Operator will be permitted to deduct from gross income of each year reasonable allowance for depreciation of all physical property used in connection with operation of mine and owned by operator; for this purpose the actual cost (not value) will be equitably distributed over useful life of such property until true salvage value has been reached; both owner and lessee will keep accurate ledger accounts to which will be charged capital invested in mine or lease, and in machinery, equipment, etc., crediting such accounts or a depreciation reserve account with amount claimed and allowed as a deduction each year until, as result of such credits, the capital charge shall be extinguished, after which no further deduction on this account will be allowed. (T. D. 2690; art. 172.)

The allowance for depletion in the case of mines pertains to a consumption of capital assets rather than to a business loss. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The lessee of a mine is not entitled to a deduction for depletion under the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

There is no substantial distinction as applied to a mine between depreciation which was sought by mine owners under the acts of August 5, 1909, and October 3, 1913, and the depletion which was allowed by the act of September 8, 1916. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

The fact that the lessee of a mine is under an affirmative obligation to remove or at least to pay for a fixed amount of ore does not change the general rule as to depletion in the case of lessees. (T. D. 3001; Apr. 15, 1920. Ct. Dec.)

—— **Returns.**

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct Dec.)

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

Operator of mining properties, or lessee thereof, required to attach to his return statement setting out certain specified data. (T. D. 2690; art. 172.)

Transportation for hire by mining companies.

Where a person, corporation, partnership, or association is engaged in mining, and, for account of himself or itself, furnishes any of the services or facilities described or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and, at times, for hire, furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

MINERAL WATERS.

Beverages.

See "Beverages."

Excise taxes.

See "Excise Taxes."

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MINORS.

Admissions.

Children under 12 years of age when admitted free are not taxable under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Tax imposed by section 700 of the act of October 3, 1917, on the admission of children under 12 years of age, must be collected in all cases at the full rate of 1 cent for each 10 cents or fraction thereof, except where distinctive tickets are issued for children under 12 years, or tickets for their use are indelibly stamped to show that they are good only for the admission of children under 12 years, or where, in absence of tickets, tax is paid at time of admission of children under 12 years; children under 12 years of age when admitted free are not taxable. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Deductions of allowances.

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not allowable deductions in return of income, nor are they income to the children. (T. D. 2690; art. 8.)

—— Exemptions.

Exemption of $200 for each dependent child provided by section 7 of act of September 8, 1916, as amended, is given in respect of income tax and is therefore applicable under both the act of September 8, 1916, as amended, and the act of October ., 1917, under same conditions of fact. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interests of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

MIXED FLOUR.

Stamps—Cancellation.

Tax-paid stamps on mixed flour may be canceled by perforation by manufacturer at his option, provided factory number, district, and State, and name of person by whom or for whom canceled, or suitable abbreviation thereof, together with date affixed and canceled, are shown by this means, and letters or numerals employed in perforation are plain and legible. (T. D. 2761; Oct. 10, 1918.)

MONEY OR OTHER PROPERTY BORROWED.

Definition.

The term "money or other property borrowed," as used in section 207 of the act of October 3, 1917, and Regulations No. 41, includes not only cash or other borrowed property which can be identified as such, but current liabilities and temporary indebtedness of all kinds and any permanent indebtedness upon which taxpayer is entitled to an interest deduction in computing net income. (T. D. 2694; art. 44.)

MORTGAGES.

Corporation excise tax.

In ascertaining net income of a corporation under section 38 of the act of August 5, 1909, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

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Estate tax—Deduction.

Mortgages resting on decedents' property should be shown under "Deductions" in Form 706, and full value of mortgaged realty should be shown under item 1 of "Gross estates"; similar rule must be applied with regard to hypothecated personalty. (T. D. 2513; July 16, 1917.)

Income taxes—Deductions.

Where mortgagee buys in property and credits indebtedness with purchase price, difference between price and indebtedness not allowable as deduction; only where purchaser for less than debt is another than mortgagee may difference between debt and net from sale credited be deducted as bad debt. (T. D. 2690; art. 8.)

In ascertaining net income of a corporation under section 2, paragraph G (b) (first) of the act of October 3, 1913, which has taken title to real property subject to mortgage, but has not assumed indebtedness secured thereby, interest paid on indebtedness may be deducted as payments required to be made as condition to continued use or possession of the property. (T. D. 2787; Jan. 31, 1919.)

—— Information at source.

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2759; Oct. 2, 1918.)

—— Withholding.

Withholding provisions of sections 9 (b) and (c) of the income-tax law apply to normal income tax of citizens and resident aliens, only when derived from interest on bonds and mortgages, deeds of trust, or other similar obligations of corporations, associations, etc., which have a "tax-free covenant clause," regardless of amount and period of payment; on and after January 1, 1918, normal tax of 2 per cent imposed by the act of October 3, 1917, is the tax to be deducted and withheld from citizens or residents of the United States in accordance with section 9 (c). (T. D. 2690; art. 43.)

MOTION PICTURES.

See "Moving Pictures."

MOTOR FUEL.

Denatured alcohol.

Formula 3 for the complete denaturation of alcohol made of refuse material for use as a motor spirit or gasoline substitute in Hawaii authorized for use by any qualified denaturer. (T. D. 2528; Oct. 3, 1917.)

Formula No. 28, for special denaturation of alcohol for use in manufacture of motor fuel, stated; formula authorized to be used exclusively in manufacture of motor fuel by a closed and continuous process, in connection with a central denaturating bonded warehouse; analytical requirements; process after denaturation; samples of finished product to be furnished; application for use of denaturant to be accompanied by blue prints and full description of process and premises. (T. D. 2769; Nov. 4, 1918.)

MOTOR VEHICLES.

Automobiles—Accessories.

Automobile bodies and other attachments and accessories to automobiles and motorcycles are not taxable when sold separately, but they are when sold as part of automobile or motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

—— Assembled car.

A usable, substantially completed automobile, produced by assembling new parts of trucks and cars, is subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. IX.)

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Automobiles—Continued.

—— Bodies.

Automobile bodies and other attachments and accessories to automobiles and motorcycles are not taxable when sold separately, but they are when sold as part of an automobile or motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

Dealer who contracts to sell to customer a truck composed of a tax-paid chassis and a body to be added by body builder and who performs his contract is liable to tax as manufacturer of completed truck, though order to body builder purports to be that of customer through the dealer as his agent. (T. D. 2795: Feb. 26, 1919.)

—— Chassis.

A chassis is an automobile within the meaning of section 600 (a) of the act of October 3, 1917, and tax is payable by manufacturer thereof; where person other than manufacturer of chassis completes and sells automobile, tax must be paid on complete car less any tax already paid on the sale of the chassis. (T. D. 2719; Art. IX.)

—— Combination of vehicles.

Single sale by dealer of tractor and trailer bought by him together tax paid, and an extra trailer, is not taxable unless combination of the three vehicles (otherwise than merely by coupling) forms a functioning vehicle. (T. D. 2795; Feb. 26, 1919.

—— Definition.

An automobile is a self-propelling vehicle, usually designed to run on a road, containing the means of propulsion within itself. (T. D. 2719; Art. VIII.)

An automobile truck or wagon is an automobile used primarily for transporting articles. (T. D. 2719; Art. VIII.)

—— Demountable top added.

If a dealer adds a demountable top to a tax-paid automobile or a driver's cab to a tax-paid truck, the sale of the improved vehicle is not subject to excise tax. (T. D. 2795; Feb. 26, 1919.)

—— Fire engines.

A self-propelling fire engine, at least if designed to carry only such persons as are necessary to drive it, is not spoken of and is not to be regarded as an automobile; if, however, it is specially designed to carry firemen not employed in or about the driving of the machine, it must be regarded as falling within the scope of section 600 (a) of the act of October 3, 1917; on other hand automobiles and automobile trucks equipped as hook and ladders, hose carts, etc., for the use of firemen, are taxable. (T. D. 2719; Art. IX.)

—— Forfeiture.

Nonparticipation of owner of automobile in its use in transporting distilled spirits upon which the tax had not been paid is no bar to proceeding in rem for its forfeiture. (T. D. 2776; Dec. 11, 1918.)

Under section 3450, Revised Statutes, automobile used in transporting spiritous liquors on which tax has not been paid, borrowed from purchaser thereof, who had given his note secured by deed of trust thereon for unpaid purchase price, is subject to forfeitures as against seller, though under terms of deed and the State law the seller could require the trustee to seize such automobile and sell it in satisfaction of his deed, and though he had no knowledge of any intention to use such automobile for an illegal purpose. (T. D. 2789; Feb. 10, 1919. Ct. Dec.)

—— Machine guns.

Motor-driven machine guns are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— Motor-driven machines.

Motor-driven machines for pulling vehicles around factories and railway stations are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

—— Motor units.

A motor unit, designed to be attached to a bicycle so as to make it self-propelling like a motorcycle, is not taxable when sold separately, but when sold attached to a bicycle or to a children's buckboard the complete vehicle is subject to the tax as a motorcycle or automobile. (T. D. 2719; Art. X.)

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Automobiles—Continued.

—— Rate of tax.

Tax imposed by section 600 (a) of the act of October 3, 1917, is 3 per cent of the price for which automobiles, automobile trucks, automobile wagons, and motorcycles are sold by the manufacturer. (T. D. 2719; Art. VIII.)

—— Scope of tax.

To come within the scope of the tax imposed by section 600 (a) of the act of October 3, 1917, a machine must be a vehicle or conveyance; that is, designed primarily for the transportation in or upon it of persons or property. (T. D. 2719; Art. IX.)

—— Speedometers.

Speedometers and other attachments and accessories to automobiles and motorcycles are not taxable when sold separately, but they are when sold as part of an automobile or motorcycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

—— Track use.

An automobile adapted for use on a track is subject to the tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. VIII.)

—— Tractors.

Tractors for pulling agricultural implements are not automobiles or automobile trucks. (T. D. 2719; Art. IX.)

A tractor, which has no body or provision for carrying the load, but is intended to haul trailers, is not taxable; if it has a body, no matter how small the carrying capacity, or is designed for attachment, permanent or temporary, to a two-wheel trailer, in such a way as to carry part of the load, it is subject to tax as an automobile truck or wagon; if sold in combination with such trailer, the tax is on the total price; a four-wheel trailer complete in itself, having no connection with an automobile except the necessary coupling when drawn by it, is not subject to tax. T. D. 2719; Art. X.)

—— Truck units.

So-called truck units, intended to be attached to pleasure car chassis so as to convert them into trucks, are not taxable when sold separately; if sold in combination with a new chassis, however, tax is imposed upon price of complete truck. (T. D. 2719; Art. X.)

—— Used or second-hand automobiles.

Used or second-hand automobiles are not subject to tax imposed by section 600 (a) of the act of October 3, 1917. (T. D. 2719; Art. X.)

Boats.

Motor boat operated solely in taking out fishing parties for hire is subject to excise tax on boats, although it is licensed in the coasting trade and transportation tax is collected from passengers. (T. D. 2795; Feb. 26, 1919.)

Electric motor boats, within the meaning of Title III of the act of September 8, 1916, are those boats, regardless of size or character of construction, which are propelled by electric power. (T. D. 2384; art. 2.)

Motor boats operated by a company engaged in the business of taking parties on trips to enjoy the trip and the scenery are not used exclusively for trade and their use is subject to the excise tax on boats. (T. D. 2785; Jan. 23, 1919.)

Motor cycles.

A motor cycle is a motor-driven bicycle. (T. D. 2719; Art. VIII.)

Side cars for motor cycles are not taxable when sold separately, but they are when sold as part of a motor cycle, or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

A motor unit, designed to be attached to a bicycle so as to make it self-propelling like a motor cycle, is not taxable when sold separately, but when sold attached to a bicycle or to a children's buckboard, the complete vehicle is subject to the tax as a motor cycle or automobile. (T. D. 2719; Art. X.)

Speedometers and other attachments and accessories to motor cycles are not taxable when sold separately, but they are when sold as part of a motor cycle or of its equipment, whether standard or not. (T. D. 2719; Art. X.)

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Seizure—Release under bond.

In case of seizures of automobiles, horses, and other similar property, collectors instructed to refuse to accept bond under section 3459, Revised Statutes, for release unless property was seized under provisions of section 3453, Revised Statutes, only; where seizure was not made under such section, if property is appraised at $500 or less, collectors will dispose of same promptly under provisions of section 3460, unless bond for costs is given, in which event bond should be forwarded to United States attorney with request to institute libel proceedings; if value exceeds $500, property should be turned over to United states marshal and the attorney requested to institute forfeiture proceedings, no bond for costs being required; question of release of property on bond is within jurisdiction of court. (T. D. 2511; July 12, 1917.)

MOVING PICTURES.

Cameras—Excise taxes.

Motion-picture cameras are subject to the tax of 3 per cent of the price for which sold by the manufacturer imposed by section 600 (j) of the act of October 3, 1917. (T. D. 2719; Art. XXV.)

Films—Excise taxes.

Tax imposed by section 600 of the act of October 3, 1917, is measured by price for which article is sold, except in case of moving-picture films; it is on actual sales price and not on list price, where that differs from the sales price; if price of article is increased to cover tax, tax is on such increased price. (T. D. 2719; Art. III.)

Tax imposed by section 600 of the act of October 3, 1917, is on sale of articles enumerated, or in case of positive moving-picture films on their sale or lease by manufacturer. (T. D. 2719; Art. III.)

In case of lease of moving-picture films tax attaches when manufacturer enters into contract of lease, either express or implied, and pursuant thereto delivers film to lessee or to carrier for lessee. (T. D. 2719; Art. IV.)

The tax imposed by section 600 of the act of October 3, 1917, is one-fourth of 1 cent for each linear foot of unexposed moving-picture films sold by the manufacturer and one-half of 1 cent for each linear foot of positive moving-picture films, containing picture ready for projection, sold or leased by the manufacturer. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, applies to the first sale or lease of any new positive moving-picture films and not to the second or any subsequent sale or lease. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, does not attach to films first sold or leased prior to October 4, 1917. (T. D. 2719; Art. XII.)

Where a laboratory simply does the mechanical work of producing the positive print, charging the owner of the negative for materials used and services rendered, such laboratory will not be regarded as the manufacturer of the film; the tax is upon the sale or lease by the owner of the film; the laboratory, however, shall keep a record of all such films produced, with name of owner and length of film, such record to be available for examination by internal revenue officers, and shall furnish monthly to collector of district in which it is located a signed statement, giving such information. (T. D. 2719; Art. XII.)

Printed or hand-lettered titles or subtitles used in connection with a picture production constitute part of the film and should be included in the length of the film upon which the tax, imposed by section 600 of the act of October 3, 1917, is computed, but if such titles are in the form of separate slides or announcements, the tax does not attach. (T. D. 2719; Art. XII.)

There is no exemption from tax imposed by section 600 of the act of October 3, 1917, in the case of films used exclusively for educational, charitable, or religious purposes. (T. D. 2719; Art. XII.)

Tax imposed by section 600 of the act of October 3, 1917, does not apply to repairs of positive films, but does to the negative film used in making such repairs. (T. D. 2719; Art. XII.)

Where manufacturer has, prior to May 9, 1917, made bona fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much of tax as is not so permitted to be

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Films—Excise taxes—Continued.

added to contract price; this applies to contracts with dealer, exchange, or exhibitor for sale or lease of moving-picture films. (T. D. 2719; Art. XXXVII.)

A foreign Government or a State, or any political subdivision thereof, buying or leasing an article for its own use is not a dealer, nor in case of moving-picture films is it an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

Tax imposed by section 600 of the act of October 3, 1917, does not apply to moving-picture films leased by the manufacturer, producer, or importer located in one of the several States of the United States, where such films are exported by manufacturer making the sale on which but for the exportation he would be liable for the tax, the tax therefore applying to articles sold for domestic delivery, but exported by or at the instance of the buyer. (T. D. 2781; Dec. 20, 1918.)

Theaters—Admissions.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

MUNICIPAL CORPORATIONS.

Admissions of officers—Exemptions from tax.

Municipal officers on official business when admitted free are not taxable under section 700 of the act of October 3, 1917; municipal officers include policemen and firemen when in attendance in the course of their duty. (T. D. 2681; Mar. 26, 1918.)

Carriers' facilities, tax on use of.

See "Transportation Tax."

Income taxes—Bonds.

Interest on State, municipal, and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; Art. 4.)

—— Net income.

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; Art. 142.)

Taxes imposed against a corporation by authority of any municipal corporation (not including those assessed against local benefits), and paid within year for which return is made, are deductible from gross income of domestic corporation; similar taxes with like exceptions assessed against and paid by foreign corporation receiving income from any source within United States are deductible from gross income received from such source, except that taxes imposed by foreign Government and paid by foreign corporations are not deductible from gross income received from sources within United States. (T. D. 2690; Art. 191.)

—— Warrants.

In cases wherein warrants are issued by a city or other political subdivision of a State and are accepted by contractor in payment for public work done, face value of such warrants must be returned as income for year in which they are received; if contractor does not receive and can not recover full face value of such warrants he may deduct from gross income for year in which warrants are converted into cash any loss sustained, which loss will be measured by difference between face value of warrants returned as income and amount actually received for them in cash or its equivalent. (T. D. 2690; Art. 108.)

Refunds.

Nonrevenue remittances, such as State or municipal taxes, sent to collector through error and deposited by him, should be refunded on Form 751; claims on this form must be submitted by collector in triplicate. (T. D. 3016; May 3, 1920.)

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Stamp taxes—Bonds.

Bonds given to a State, township, county, or village, covering contracts for governmental purposes or the protection of the State, township, county, village, or municipality, in any respect, are free from Federal taxation. (T. D. 2624; Dec. 14, 1917.)

MUNITION MANUFACTURERS' TAX.

Act published.

Sections 300 to 312 of the act of September 8, 1916, relating to tax on manufacturers of munitions, published for information of internal-revenue officers and others concerned. (T. D. 2362; Sept. 11, 1916.)

Assessment and collection.

Commissioner will, as soon as practicable after return has been transmitted to him, assess tax found due and notify taxable person of amount so assessed. (T. D. 2384; art. 7.)

All administrative, special, and general provisions of law relating to assessment or collection of taxes, not specifically repealed, apply to Title III of the act of September 8, 1916, in so far as applicable and not inconsistent with its provisions. (T. D. 2384; art. 8.)

Where Secretary of Treasury or Commissioner has reason to be dissatified with return, or where no return is made, Commissioner may make investigation and examine books and records, and may determine amount of tax due and assess tax accordingly; Commissioner shall notify taxable person of result of finding and the tax shall be collected unless such person files with Commissioner within 30 days from date of such notice written request for hearing, in which event burden of proof that amount of taxable income determined by Commissioner was not correct will devolve upon person against whom tax was assessed. (T. D. 2384; art. 9.)

Capital stock tax—Deduction.

Credit of payment of munition manufacturer's tax applies alike to foreign corporations and to domestic corporations. (T. D. 2750, art. 16; Aug. 9, 1918.)

The amount, if any, of the munition manufacturer's tax imposed by Title III of the act of September 8, 1916, actually paid by the corporation since making its last previous return is deductible from capital stock tax; if munition manufacturer's tax it due and payable but has not been paid at time capital stock tax becomes due and payable no credit of the munition manufacturer's tax is permissible until after such latter tax has been paid; after its payment the credit may be availed of by a claim for refund of so much of capital stock tax actually paid as is not in excess of the munition manufacturer's tax which became due and payable within the same calendar year. (T. D. 3009; Apr. 22, 1920.)

Date act effective.

Effective date of Title III of the act of September 8, 1916, is January 1, 1916; that is to say, the tax is laid upon or measured by net profits received by or accrued to each taxable person for and during entire calendar year ended December 31, 1916, or so much thereof as during which the person may have been engaged in business of manufacturing and disposing of articles enumerated, and for each calendar year thereafter until one year after close of present European war. (T. D. 2384; art. 3.)

Deductions from gross income.

See "Net income or profits," *post.*

Definitions.

The word "appendages," as used in paragraph (d) of article 2 of Regulations No. 39, includes those adjuncts or accessories which may be attached to and become in effect parts of firearms. (T. D. 2714; May 14, 1918.)

"Any part thereof," as used in section 301 of the act of September 8, 1916, is any article relatively complete within itself and designed or manufactured for special purpose of being used as component part of completed munition, and which, by reason of some peculiar characteristic, loses its identity as a commercial commodity, and which, without further treatment, can not be used for any purpose other than that for which it was designed; stock or commercial commodity purchasable in general trade or upon market, if adapted to use in manufacture of munition, is not

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Definitions—Continued.

"part," and will be treated as raw material, provided that articles which ordinarily would be classed as commercial commodities become "parts" when they are manufactured specially for and sold to manufacturer to be by him incorporated in and made essential part of any munitions enumerated in said section 301. (T. D. 2384; art. 13.)

"Gross income," as used in Regulations No. 39, relating to munition manufacturer's tax, means gross receipts from sale or disposition of munitions or parts thereof enumerated in section 301, Title III, act of September 8, 1916. (T. D. 2384; art. 10.)

The term "shells," as used in Title III of the act of September 8, 1916, comprehends any receptacle used to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

The term "torpedoes," as used in Title III of the act of September 8, 1916, comprehends any receptacle to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

Electric motor boats, within the meaning of Title III of the act of September 8, 1916, are those boats, regardless of size or character of construction, which are propelled by electric power. (T. D. 2384; art. 2.)

Term "person," when used in Regulations No. 39, includes such partnerships, corporations, or associations as are engaged in manufacture in the United States and in the sale or disposition of articles enumerated in section 301 of Title III of the act of September 8, 1916, or parts thereof. (T. D. 2384; art. 1.)

"Projectiles," as used in Title III of the act of September 8, 1916, include any and all missiles to be projected from a gun, cannon, mortar, or other firearm, and will include bullets, balls, shot, or missiles. (T. D. 2384; art. 2.)

Term "taxable person," when used in Regulations No. 39, includes such partnerships, corporations, or associations as receive any profit from the manufacture and sale of articles enumerated in section 301 of Title III of the act of September 8, 1916. (T. D. 2384; art. 1.)

Submarine or submersible vessels, within the meaning of Title III of the act of September 8, 1916, include all craft, no matter how propelled, manufactured for purpose of being at will submerged beneath surface of water. (T. D. 2384; art. 2.)

As used in section 302 of the act of September 8, 1916, raw materials are any crude or elemental products or substances necessary to the manufacture of any parts of the articles enumerated in paragraphs (b) to (e), inclusive, of section 301, and which, without any application of skill or science, can not become component parts or elements in the finished article or unit; as applied to manufacture of completed munitions, raw materials include not only such crude products and elemental substances, but all essential finished or unfinished parts as well; cost of raw materials authorized as deduction will not include any expenditures made for raw materials used in manufacture of articles other than munitions, or parts thereof, where manufacture of such munitions or parts is carried on in connection with any other business. (T. D. 2384; art. 15.)

The words "shell" and "any part" as used in section 301 of the act of September 8, 1916, do not, respectively, mean "completed shell" or "any completed part." (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920. Ct. Decs.)

Exemptions.

Articles enumerated in (a) and (b) of section 301 of the act of September 8, 1916, as being exempt because "used for industrial purposes" include those articles so enumerated which are used in connection with or in promotion and operation of some industry; net profits received or accrued on any articles named in such paragraphs which are manufactured and sold or disposed of for any purpose other than for use in connection with or in promotion or operation of some industry will be subject to tax. (T. D. 2384; art. 14.)

Gross income.

Gross income contemplated by Title III of the act of September 8, 1916, is gross amount received by or accrued to taxable person during the year from the sale or disposition of articles named in section 301 of the act, which are manufactured within the United States, profits received and accrued from manufacture and sale of blasting powder and dynamite, and from manufacture and sale of cartridges, loaded and unloaded, caps and primers used for industrial purposes being excepted, and income received during 1916 from sale and delivery of munitions under contracts executed and fully performed prior to January 1, 1916, being also excepted from

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Gross income—Continued.

liability to tax; expenses incident to manufacture of such articles and creation of such incomes not deductible from gross income. (T. D. 2384; art. 10.)

Income from contracts executed and fully performed prior to January 1, 1916, relates to any deferred payments on such fully performed contracts, which payments may not have been received until subsequent to January 1, 1916; profits represented by such payments having been earned prior to effective date of Title III of the act of September 8, 1916, are not subject to tax although received subsequent to that date; if, however, contracts were not fully performed prior to January 1, 1916, any profits resulting from that part of the contracts performed subsequent to January 1, 1916, must be returned. (T. D. 2384; art. 10.)

Net income or profits.

Amount taxable or by which tax is measured is net profits received or accrued from sale or disposition of munitions enumerated in section 301 of the act of September 8, 1916, manufactured in the United States, or from sale or disposition of any parts of the articles enumerated in (b) to (e), inclusive, of said section; only net profits exempt are those received or accrued to manufacturer from sale or disposition of blasting powder and dynamite, cartridges, loaded and unloaded, caps and primers used for industrial purposes; fact that any of the articles named in section 301 are manufactured and sold or disposed of in general trade, to be used for sporting purposes, or for any purposes other than industrial, will not exempt from liability to tax net profits received or accrued from sale or disposition of such articles. (T. D. 2384; art. 12.)

Running or general expenses as contemplated by section 302 of the act of September 8, 1916, constitute allowable deduction from gross amount of income received or accrued from manufacture in the United States, and the sale or disposition of munitions or parts thereof, to extent that such expenses are incurred and paid during the year in manufacture of articles the profits from sale of which are included in gross amount of income returned; such expenses include rent, repairs, maintenance, heat, light, power, insurance, management, salaries, wages; where other business is carried on and running expenses cover those incurred in entire business and can not be segregated, expenses deductible are such portion of entire expenses as gross income received or accrued from manufacture and sale or disposition of war munitions or parts thereof, is a portion of entire gross income received or accrued from entire business; cost of new buildings, new machinery, or equipment should be charged to capital account, to be taken care of through depreciation or amortization. (T. D. 2384; art. 16.)

Amount deductible from gross income on account of interest is amount of interest actually paid within year on debts or loans contracted to meet needs of business of manufacturing such articles, and proceeds of which were actually used to meet such needs; this deduction must not include interest paid on debts or loans, proceeds of which were used to meet needs of any other business in which manufacturer may be engaged; deduction can be taken only from gross income of the year in which interest was actually paid. (T. D. 2384; art. 17.)

Taxes deductible are those taxes of all kinds actually paid during year in which gross income was received or accrued and which were imposed with respect to business or property relating to or used in manufacture of articles, profit from which is returned for purpose of tax imposed by Title III of the act of September 8, 1916; if taxes paid by manufacturer of munitions or parts thereof are not segregated from those paid with respect to other business or property, they will be apportioned in accordance with rule for apportioning running expenses, and amount deductible from gross income received or accrued from manufacture and sale of munitions or parts will be amount thus apportioned and made applicable as a proper charge against the income from the manufacture of munitions or of parts thereof. (T. D. 2384; art. 18.)

Amount to be deducted from gross income on account of losses is amount of losses actually sustained and charged off during the year for which the return is made, and which were sustained on account of, or in connection with, the business of the manufacture and sale or disposition of munitions or parts thereof, and include losses from fire, flood, storm, accident, or other casualty, not compensated for by insurance or otherwise, the casualty losses referred to being only those which relate to this business; losses sustained in connection with collateral investments or in connection with any other business, profits from which are not taxable under Title III of the act of September 8, 1916, can not be deducted from gross income. (T. D. 2384; art. 19.)

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Net income or profits—Continued.

Depreciation deduction authorized by the act of September 8, 1916, relates to loss due to use, wear, and tear of physical property owned and used by the manufacturer but which is not specifically designed or installed for purpose of manufacturing munitions or parts thereof, and which, without material alteration and changes may be used in any other business in which person may be engaged; annual deduction on this account will be reasonable allowance determined upon basis of cost and the probable number of years constituting life of property; if same building and equipment are used coincidently for purposes other than manufacture of munitions or parts thereof, amount deductible will be apportioned in accordance with rule for apportioning running expenses. (T. D. 2384; art. 20)

Provision of section 302 of the act of September 8, 1916, authorizing deduction to meet conditions peculiar to each concern, has for its purpose the amortization of values of buildings and machinery constituting special plants, which will, except for salvage, have no substantial value to manufacturer when contracts executed or to be executed for manufacture of munitions or parts thereof have been fully performed; method of estimating annual allowance on this account stated. (T. D. 2384; art. 21.)

Neither depreciation nor amortization deduction allowable will relate to property used in connection with any other business carried on by the manufacturer; amortization applies only and particularly to those special plants and equipment whose life and value, except salvage, will terminate with the end of the business for which they were erected and equipped, and it is to be differentiated from depreciation in that the latter relates to property whose life and value is not dependent upon or materially affected by its use in manufacture of munitions or parts thereof. (T. D. 2304; art. 21.)

Payment.

Taxable person required to pay tax to collector with whom returns was filed on or before expiration of 30 days from date of notice of assessment of tax, failing which, such taxable person will be liable to penalty equivalent to 5 per cent of amount of tax assessed. (T. D. 2384; art. 7.)

Persons liable.

A steel company which, under contract to deliver shells to a foreign Government, manufactured steel of the characteristics necessary to the manufacture of shells, retained ownership through all subsequent steps by subcontractors, followed up and checked every operation on the original steel, and delivered the completed shells to the foreign Government, was a "person manufacturing * * * shells," within the meaning of section 301 of the act of September 8, 1916, it appearing that the operations by the subcontractors depended on the composition and characteristics of the steel made in the initial step, the relative importance of which step, as compared with the remaining eight by the subcontractors, is shown by the fact that bare material and running expenses involved therein amounted to about one-half of the sum paid to the subcontractors for work, material, and profits. (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920. Ct. Decs.)

A steel company which, proceeding under a subcontract, selected the material required in shells, made the steel which constituted the shells, and by work done upon said steel segregated it from the general field of commercial use and limited it to shell making, the six several steps performed constituting about 40 per cent of the cost of the shells, was a "person manufacturing * * * shells * * * or any part of any of the articles named," within the meaning of section 301 of the act of September 8, 1916, though 29 further steps remained to be taken by the contractor and though some of the material, when imperfect, was scrapped and used for other mechanical purposes. (Id.)

A company which, under a subcontract, agreed to manufacture and furnish to a contractor for shells, rough steel shell forgings of the character provided in the contract as to chemical constituents, tensile strength, size, shape, etc., and which to fulfill its contract, either made, had made, or bought in the market the grade of steel required, of the common commercial type known as rounds, which rounds it nicked and broke into 18-inch lengths, which it then put through two forgings processes, piercing a hole and lengthening the rounds, the output being a hollow steel body or shell form weighing about 170 pounds, is a "person manufacturing * * * shells * * * or any part of" a shell, within the meaning of section 301 of the act of September 8, 1916, though the contractor, to make the shell form suitable for use as a shell was required to dress, bore, and machine it down to 77 pounds by means of some 27 distinct and separate processes. (Id.)

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Persons liable—Continued.

Tax may be assessed against person who may at time own or carry on business or who may act as agent for such person, and in case business ceases during any calendar year tax may be assessed against person who owned or carried on business at time it ceased, or against his agent, if he had one, carrying on the business: in either case person against whom tax is assessed will be liable for its payment and to any penalties that may attach by reason of failure to comply with act. (T. D. 2384; art. 11.)

Returns.

Every person subject to tax imposed by Title III of the act of September 8, 1916, required to make return of annual net profits for year ended December 31, 1916, and for each calendar year thereafter; items to be set forth in return stated. (T. D. 2384; arts. 4, 5.)

Return required to be made upon blank forms prescribed by Commissioner and approved by Secretary of the Treasury, and which may be had of collectors of districts in which taxable persons have their principal places of business; failure to procure or receive blank form will not relieve taxable person from liability to penalty if he fails to make return within prescribed time; return required to be sworn to before officer qualified to administer oath, by owner of business, if owned by individual, or by two members of firm, if owned by partnership, or by two principal officers of company, if owned by corporation or association; return must be filed with collector of district in which person has principal place of business on or before March 1 next following calendar year for which return is made, and collector will forthwith transmit return to Commissioner. (T. D. 2384; arts. 6, 7.)

Failure to file return within prescribed time subjects person making return to additional tax of 50 per cent, and also to specific penalty not in excess of $10,000, or to imprisonment not in excess of one year, or both, in discretion of court; provided, that in case of sickness or absence of person required to make or verify return, collector may grant extension of time not exceeding 30 days from March 1: provided further, that if return is not made within prescribed time, but is voluntarily and without notice from collector filed after such time, and it is shown that failure to file it within time was due to reasonable cause and not to willful neglect, the 50 per cent addition will not be made to the tax. (T. D. 2384; section 8.)

Every person engaged in manufacturing any of the articles set out in section 301 of the act of September 8, 1916, is required to make return in accordance with form prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, as authorized by section 304 of the act, and must set forth not only gross income and the authorized allowances but such other particulars as the form calls for. (T. D. 2384; art. 22.)

Subjects of taxation.

Tax imposed by Title III of the act of September 8, 1916, is in addition to the income tax, and is an amount equivalent to 12½ per cent of entire net profits received or accrued to every person from the sale or disposition of (a) explosives, except blasting powder and dynamite used for industrial purposes; (b) cartridges, caps, or primers, exclusive of those used for industrial purposes; (c) projectiles, shells, or torpedoes of any kind, including shrapnel or fuses or complete rounds of ammunition; (d) firearms of any kind and appendages, including small arms, cannon, machine guns, rifles, and bayonets; (e) electric motor boats, submarine or submersible vessels or boats; and (f) any part of any of the articles enumerated in (b) to (e), inclusive. (T. D. 2384; art. 2.)

The pertinent subjects of inquiry where section 301 of the act of September 8, 1916, is to be applied are, first, whether the war munitions or war accessories were articles "manufactured within the United States"; second, if they were so manufactured, who manufactured such articles and what were the "net profits actually received or accrued * * * from the sale or disposition of such articles"; third, if they were so manufactured within the United States, who manufactured any part of such articles and what were the "net profits actually received or accrued * * * from the sale or disposition of such articles." (T. D. 2875; June 26, 1919. T. D. 3003; Apr. 21, 1920. Ct. Decs.)

The broad purpose of Congress in the passage of section 301 of the act of September 8, 1916, was to select as the subject of taxation war munitions and war appliances; it was not intended to tax the manufacturer of articles or parts thereof, which, while susceptible of warlike use, were, in fact, not so used, but remained in the channels of normal commerce and use. (Id.)

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Violation of law or regulations.

Any person subject to Title III of the act of September 8, 1916, who violates any of its provisions or the regulations, or who knowingly makes false statements in his return, or refuses to give information called for, is guilty of a misdemeanor, and upon conviction shall, in addition to paying tax to which liable, be fined not more than $10,000 or imprisonment not exceeding one year, or both, in discretion of court. (T. D. 2384; art. 23.)

MUSICAL INSTRUMENTS.

Excise taxes—Automatic organs.

Automatic organs are not subject to the tax imposed by section 600 (b) of the act of October 3, 1917. (T. D. 2719; Art. XI.)

—— Piano players.

The tax imposed by section 600 (b) of the act of October 3, 1917, is 3 per cent of the price for which the piano players and records used in connection therewith are sold by the manufacturer; accessories to such articles other than records are not taxable unless sold in combination therewith; a piano player is a device designed to play a piano mechanically and may be separate from the piano or incorporated in it; the device and the piano together are sometimes known as a player piano; the tax is upon the piano player and not upon the complete player piano unless the price of the player embodied in the player piano can not be separately determined. (T. D. 2719; Art. XI.)

—— Talking machines.

The tax imposed by section 600 (b) of the act of October 3, 1917, upon graphophones, phonographs, talking machines, and records used in connection therewith, is 3 per cent of the price for which sold by manufacturer; accessories, other than records, are not taxable unless sold in combination; toy talking machines are taxable. (T. D. 2719; Art. XI.)

MUTUAL DITCH OR IRRIGATION COMPANIES.

Capital stock tax—Exemption.

Farmers' or other mutual ditch or irrigation company of purely local character, income of which consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art 12; Aug. 9, 1918.)

Income taxes—Exemption.

Mutual ditch or irrigation company is specifically exempt from income tax, provided that their entire income consists solely of assessments, dues and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organization has income from any source other than assessments, dues and fees such income is taxable, and organizations receiving same will be required to make returns (T. D. 2690; Art. 69.)

MUTUAL INSURANCE COMPANIES.

See "Insurance."

MUTUAL PROTECTIVE ASSOCIATIONS.

Insurance.

See "Insurance."

MUTUAL SAVINGS BANKS.

Capital stock tax—Exemption.

Mutual savings bank not having capital stock represented by shares is specifically exempt from tax under section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemption.

Mutual savings banks not having capital stock represented by shares are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

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NAMES.

Excise taxes—Medicinal preparations.

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Where the owner of a formula contracts with a manufacturer to prepare an article according to such formula and to deliver it to him in complete, salable form, the labels bearing the formula owner's name, he is considered the manufacturer. (T. D. 2719; Art. XXI.)

A person who bottles or otherwise prepares an article and merely for advertising purposes places on such article the name of any dealer who may handle it shall be deemed manufacturer if names of both persons appear, but if only the dealer's name appears he shall be deemed the manufacturer. (T. D. 2719; Art. XXI.)

If article or its container has on it both a trade-mark or trade name of one manufacturer, and the individual or business name of another, the owner of the trade-mark or trade name will be deemed the manufacturer; if the article or its container has on it both the commercial name of the article and an individual or business name, the latter will be deemed to designate the manufacturer. (T. D. 2719; Art. XXI.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation or as a remedy or specific. (T. D. 2719; Art. XXI.)

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label does not amount to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, is not of itself a trade-mark under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, is a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label is not a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Income taxes—Claims.

Claim for refund of assessed tax and penalties should be made in name of party assessed, if living, but if dead, claim should be made in name of executor or administrator, and certified copies of letters of administration or letters testamentary or other similar evidence should be affixed to claim to show that claimant is administrator, etc. (T. D. 2690; arts. 265, 266.)

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Income taxes—Continued.

—— Returns.

Where business was continuous throughout year, no change in management or operation other than change in name of corporation having occurred, return should be made covering business transacted throughout the year, such return to be made by corporation in name which it bears at end of year, with notation on return that name had been changed, giving both old and new names; if, however, distinctly new corporation was organized to take over property of old, both corporations will be required to make separate returns, covering periods of year during which they were respectively in charge of business. (T. D. 2690; art. 206.)

NARCOTICS.

Conspiracy to violate law.

Indictment charging conspiracy to violate section 2 of the act of December 17, 1914, need not negative exceptions found in such statute; demurrer to indictment overruled in case of United States *v.* O'Hara. (T. D. 2392; Nov. 6, 1916. Ct. Dec.)

Constitutionality of law.

Section 2 of the act of December 17, 1914, being a revenue measure, is not an invasion of the police power reserved to the States, and is constitutional. (T. D. 2809; Mar. 20, 1919. Ct. Dec. T. D. 2887; July 12, 1919. Ct. Dec.)

Evidence.

It is proper to permit physicians to testify as experts as to well-recognized methods among medical fraternity of treating persons addicted to narcotics for purpose of curing them of the habit, with view to showing that physician did not dispense narcotics in legitimate manner; evidence from physicians to effect that unless confined an addict is never cured of the habit properly admitted. (T. D. 2887; July 12, 1919. Ct. Dec.)

Indictment.

Illegal dispensing of narcotics may be made separate count in indictment as to each addict involved, and evidence may be admitted tending to prove sales by physician to persons other than those mentioned in the indictment. (T. D. 2887; July 12, 1919. Ct. Dec.)

Object of law.

The object of the act of December 17, 1914, although enacted under the taxing power of Congress, is to prevent the growing use of narcotics, deemed a menace to the nation by Congress, the act having a moral end as well as revenue in view. (T. D. 2887; July 12, 1919. Ct. Dec.)

Physicians—Prescriptions, sales, etc.

Ruling contained in T. D. 2200, of May 11, 1915, permitting practitioner to dispense or prescribe narcotic drugs in a quantity more than is necessary to meet the immediate needs of a patient, revoked, and such revocation declared applicable to all cases whether decreasing dosage is indicated or not. (T. D. 2879; July 2, 1919.)

Order issued by practicing and registered physician for morphine to habitual user thereof, the order not being issued in course of professional treatment in attempted cure of habit, but being issued for purpose of providing user with morphine sufficient to keep him comfortable by maintaining his customary use, is not a physician's prescription within exception (b) of section 2 of the act of December 17, 1914. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Physician who furnished narcotics to an addict in decreasing quantities and claims to be attempting cure of addiction is acting contrary to the act of December 17, 1914, when it is shown that the physician has not personally attended the addict, or has given such addict some personal attention, but not sufficient to show that he acted in good faith. (T. D. 2887; July 12, 1919. Ct. Dec.)

Fact that physician when "in the course of his professional practice only" is excepted from requirement that narcotics shall be dispensed upon official order form does not provide authority for physician to sell narcotics, if he does not do so in good faith, for purpose of securing cure of one suffering from illness or to cure him of the morphine habit; the exception referred to must be construed strictly, and those who set up any such exception must establish it as being within the words, as well as within the reason, thereof. (T. D. 2887; July 12, 1919. Ct. Dec.)

Physician who sells, dispenses, or distributes 500 one-sixth grain tablets of heroin not in the course of his regular professional practice and not for treatment of any

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Physicians—Prescriptions, sales, etc.—Continued.

disease to person popularly known as a "dope fiend," for purpose of gratifying his appetite for the drug as habitual user thereof, commits indictable offense. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

The first sentence of section 2 of the act of December 17, 1914, prohibits retail sales of morphine by druggists to persons who have no physician's prescription, who have no order blank therefor, and who can not obtain an order blank because not of the class to which such blanks are allowed to be issued, and such prohibition is constitutional. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Physician who sells, gives away, or distributes 500 one-sixth grain tablets of heroin not in pursuance of written order on form issued on blank furnished by Commissioner of Internal Revenue commits indictable offense. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Article 11 of Regulations No. 35, prohibiting refilling of narcotic prescriptions, modified, so that prescriptions calling for morphine, codeine, or heroin, which are written by registered practitioners for patients suffering from Spanish influenza and any pulmonary or bronchial affections, may be refilled, provided that at time of issuance by physicians instructions are noted in body of such prescriptions, "Repeat if necessary," and druggist filling and refilling same shall note thereon each and every date upon which such prescription is refilled. (T. D. 2766; Oct. 22, 1918.)

Notwithstanding Harrison narcotic act, section 2, exception (*b*), excepting sales of the prohibited drugs on the written prescription of a registered physician, a sale by a druggist, who knows that the prescription was issued to gratify the holder's appetite, and not to cure disease or alleviate suffering, violates the law, and the physician issuing the prescription, knowing it is to be filled by a druggist having such knowledge, aids and abets the violation. (T. D. 3085; Oct. 27, 1920. Ct. Dec.)

Knowledge by a druggist that a prescription under the Harrison narcotic law was issued to gratify the holder's appetite, and not to cure disease or alleviate suffering, is essential to guilt, and negligent failure to inquire will not take the place of knowledge. (T. D. 3085; Oct. 27, 1920. Ct. Dec.)

The undisputed facts that the physician issued prescriptions only for narcotics; that many of the alleged patients were described in his prescriptions as addicts, and had the physical appearance of such; and that the prescriptions were issued to the same persons repeatedly and over long periods of time and without diminution in the quantity prescribed, indicating that no cure by reduction was intended by the physician, warranted the conclusion that the druggists must have known when they filled such prescriptions that they had been issued merely to satisfy addiction. (T. D. 3085; Oct. 27, 1920. Ct. Dec.)

On a trial for abetting a violation of the Harrison narcotic law by a druggist, an instruction erroneously authorizing a conviction, though the druggist had no actual knowledge that a prescription was wrongfully issued, was not ground for reversal, where reasonable men could have drawn but the one inference that the druggist had such actual knowledge. (T. D. 3085; Oct. 27, 1920. Ct. Dec.)

Regulations—Mandamus to abrogate.

Writ of mandamus directed to Commissioner of Internal Revenue and Secretary of the Treasury of the United States is not the proper remedy to abrogate a regulation (T. D. 2309; Mar. 11, 1916), issued under authority of act of December 17, 1914, popularly known as Harrison Narcotic Law, to carry into effect the provisions of section 6 of such act, which regulation was issued in the exercise of official discretion. (T. D. 2489; May 11, 1917. Ct. Dec.)

Samples.

Manufacturers of narcotics may lawfully furnish to any duly accredited special agent or customs agent of the Treasury Department samples requried in order to make analyses to establish allowance of drawback on manufactured drugs exported from this country, taking receipt of such officer therefor, which will be filed with official narcotic order forms and records. (T. D. 2487; Apr. 28, 1917.)

Synthetic substitutes.

Ruling contained in T. D. 2194, holding synthetic substitutes for cocaine, alpha or beta eucaine, or any of their salts, subject to the provisions of the act of December 17, 1914, and requiring manufacturers of, dealers in, and physicians prescribing any such substitutes as therein defined to register and otherwise conform to the Harrison narcotic law and the regulations issued thereunder, revoked, to take effect April 10, 1917. (T. D. 2479; Apr. 10, 1917.)

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Unclaimed freight or express packages—Sale.

When sale of express or freight package containing narcotic drugs is to be made, collector of district should be notified sufficient length of time in advance to permit detail by him of officer to inspect packages and identify such as contain narcotic drugs; revenue officer must be present at sale to see that packages are sold to those persons only who are registered under Federal law or to officers of Federal, State, or municipal governments exempt from its provisions; purchaser must at time of purchase make supplemental inventory, in duplicate, of drugs coming into his possession, he to retain original for file with his order forms, and forward duplicate to collector who is required to notify Internal Revenue Bureau when such transactions take place and furnish name and address of purchaser. (T. D. 2712; May 13, 1918.)

NATIONAL FARM LOAN ASSOCIATIONS.

Capital stock tax—Exemption.

National farm loan associations, as provided in section 26 of the act of July 17, 1916, are exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemption.

National farm loan associations organized pursuant to act of July 17, 1916, are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

NATIONAL FORMULARY.

Medicinal preparations.

Use of distilled spirits for nonbeverage purposes includes manufacture of bona fide United States Pharmacopœia or National Formulary medical extracts. (T. D. 2559; Oct. 26, 1916.)

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576; Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Such United States Pharmacopœia or National Formulary preparations as aromatic elixirs, tincture of aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

When it is desired to use nonbeverage alcohol in making flavoring extract for which no specific standard or process has been prescribed by Secretary of Agriculture, manufacturer must furnish, in duplicate, data required by T. D. 2576 with respect to alcoholic medicinal compounds not conforming to U. S. P. or N. F.; samples of product will be required when doubt exists as to nonbeverage character of same, which samples will be forwarded by express, charges prepaid, to Division of Chemistry, Office of the Commissioner of Internal Revenue. (T. D. 2760; Oct. 9, 1918.)

Manufacturers of preparations in which sole medication is salt of iron will not, with certain stated exceptions, be considered entitled to use alcohol without paying special tax; use of alcohol in conformity with prescribed standard is permitted in compounding preparations containing peptonate of iron and in manufacture of preparations corresponding in strength of iron to vinum ferri N. F.; inclusion of fermentable but nonmedicinal material in preparation not otherwise requiring alcohol will not be regarded as sufficient reason for using it. (T. D. 2760; Oct. 9, 1918.)

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Medicinal preparations—Continued.

In the case of alcoholic medicinal compounds which are not in conformity with the United States Pharmacopœia or National Formulary, the manufacturer will file with collector, when requesting permit for use of nonbeverage alcohol or nonbeverage wines, the following data in duplicate: The name of the preparation, by whom manufactured, for whom manufactured in cases where same is not placed on the market by the manufacturer, the advertising matter distributed with the preparation, and the percentage of alcohol by volume contained in the finished product. (T. D. 2788; Feb. 6, 1919.)

Where manufacturer desires to make United States Pharmacopœia or National Formulary products, permit may be approved by collector of internal revenue without submitting the matter to this office; and as to such products a statement of the names by classes, such as "tinctures," "extracts," etc., and that they conform to the standards specified, will be sufficient without any further description or statement of formula. (T. D. 2788; Feb. 6, 1919.)

Standards adopted by Bureau of Internal Revenue for alcoholic preparations in which nonbeverage alcohol may be used stated; these preparations include United States Pharmacopœia and National Formulary preparations, medicinal preparations, tincture of Jamaica ginger, flavoring extracts, perfumes, toilet waters, etc. (T. D. 2940; Oct. 29, 1919.)

The commercial labels that are placed on containers of all preparations other than United States Pharmacopœia or National Formulary must be filed with application for permit for use of nonbeverage distilled spirits or wines, otherwise permit will not be granted. (T. D. 2940; Oct. 29, 1919.)

NATURAL MINERAL WATERS.

See "Beverages."

NAVY.

See "Army and Navy."

NEAR BEER.

See "Fermented Liquors."

NET INCOME.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

Definition.

Net income is difference between gross income and the sum of allowable deductions. (T. D. 2690; art. 6.)

NEW YORK LIMITED PARTNERSHIPS.

Capital stock tax.

Limited partnerships of the New York type, having practically no characteristics of a corporation or joint-stock company except limited liability as to some of the partners, are not within scope of tax imposed by act September 8, 1916. (T. D. 2750, art. 2; Aug. 9, 1918.)

NEWSPAPERS.

Admission tax—Reporters, critics, etc.

Newspaper critics and reporters occupying space in audience must pay tax imposed by section 700 of act of October 3, 1917; admissions of baseball reporters occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, and newsboys selling newspapers, are exempt. (T. D. 2681; Mar. 26, 1918.)

Transportation charges.

The amounts paid for transportation, other than by express, of newspapers, are subject to the tax of 3 per cent; whenever two or more tickets for transportation are sold in book form or in bulk, tax applies to aggregate amount paid for tickets so purchased. (T. D. 2676; Mar. 18, 1918.)

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NOMINAL CAPITAL.

Definition.

The term "nominal capital," as used in section 209 of the act of October 3, 1917, means in general a small or negligible capital whose use in a particular trade or business is incidental; certain businesses not construed as having nominal capital for purposes of excess profits tax, named. (T. D. 2694; art. 74.)

NONALCOHOLIC BEVERAGES.

See "Beverages."

NONBEVERAGE ALCOHOL.

See "Alcohol."

NONRESIDENTS.

Estate taxes.

See "Estate Taxes."

Excess profits tax.

See "Excess Profits Tax."

Excise taxes.

See "Excise Taxes."

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

NOTES.

See "Promissory Notes."

NOTICE.

Caution notices.

See specific heads.

Estate tax—Excessive payment.

"Time of notification," within section 207 of the estate tax law, Title II, act of September 8, 1916, is the date on which notice of the amount of such "excess part of the tax" is received by the executor, whether such notice is given by mail or otherwise. (T. D. 2770; Nov. 6, 1918.)

—— Nonresident decedents.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, for all property of any kind located or legally situate in this country, by agents or representatives, donees, transferees, trustees, or fiduciaries of decedent dying domiciled abroad, whether alien or citizen of United States; with what collector notice must be filed; extension of time for filing notice; notice to commissioner of filing of notice. (T. D. 2454; Feb. 28, 1917.)

—— Resident decedent.

Regulation prescribing when 30-day notice (Form 705) must be filed by others than executors or administrators; surviving husband or wife; heirs; donees; trustees; fiduciaries; others holding at, or taking immediately upon, decedent's death, property inclusive in gross estate under definition of section 202 of act of September 8, 1916. (T. D. 2454; Feb. 28, 1917.)

Income taxes—Assessment.

All persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year. (T. D. 2690; art. 38.)

In cases of refusal or neglect to make return and in cases of intentional or fraudulent return, commissioner shall, upon discovery thereof, at any time within three years after said return is due or has been made make return upon information obtained as provided for by law, or require necessary corrections to be made, and assessment thereof shall be paid immediately upon notification of amount thereof; if assessment remains unpaid for 10 days after notice and demand there shall be added stated penalties and interest. (T. D. 2690; art. 42.)

Where additional assessments are made as result of examination or audit of return, taxpayer shall, immediately following making of assessment, be notified of amount

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Income taxes—Assessment—Continued.

thereof, and such taxes shall be paid within 10 days from date of such notice. (T. D. 2690; art. 230.)

—— Claims.

Where collector discovers from schedule of abated taxes that mistake has occurred either in having abated a larger amount than that claimed or in abating a tax previously abated, he should immediately notify Commissioner of such fact, so that order may be recalled, and error be corrected by issuing of new one in its place; in such case no credit for any amount whatever should be taken upon Form 51B, or upon quarterly account, until order of abatement and schedule have been corrected. (T. D. 2690; art. 260.)

—— Collection and payment.

Tax is to be paid upon notice from collector of internal revenue of amount of tax due, and at all events not later than June 15; as to tax unpaid on June 15, and for 10 days after notice and demand therefor penalty is 5 per cent of amount of tax unpaid and interest at rate of 1 per cent per month upon such tax from time same became due, except from estates of insane, deceased, or insolvent persons; collectors should issue Form 17 for purpose of fixing definitely date when penalty accrues and interest begins to run, and copy of notice should be filed. (T. D. 2690; arts. 39, 41.)

Where returns are made on basis of calendar year corporations against which taxes are assessed shall be notified of the amount thereof on or before June 1 of each successive year, and taxes shall be paid on or before June 15 of year in which assessment is made; corporation making returns on basis of fiscal year other than calendar year shall be notified of amount assessed against it on or before last day of 90-day period next following date when return was due, and taxes shall be paid within 105 days from due date of the return. (T. D. 2690; art. 230.)

—— Returns.

The notice from the collector, provided for in subsection 3176 of section 16 of the act of September 8, 1916, is the note or memorandum prescribed by subsection 3173 of said section. (T. D. 2690; art. 54.)

Return on basis of fiscal year other than calendar year can not be accepted unless such fiscal year shall have been established by proper notice to collector, and if in absence of such notice and designation return is filed subsequent to date when it was required to be filed, if made on calendar year basis, it will be considered delinquent, and corporation will be liable to penalty for failure to file return within prescribed time. (T. D. 2690; art. 203.)

Manufacturers of wines.

All parties producing not exceeding 1,000 gallons of wine per year, and who receive no wine in bond, must file notice on Form 698, two copies to be filed with collector, and one retained on winery premises; notice must describe and show location of buildings, size and use of each, number of fermenters and of wine tanks respectively, and size of each, and estimated quantity of finished wine to be produced; duplicate of notice on which registry number will be noted should be forwarded to Commissioner of Internal Revenue. (T. D. 2765; Oct. 21, 1918.)

Each person entitled to and desiring to avail himself of exemption provided by section 402 (b) of act September 8, 1916, must file notice with collector of internal revenue before commencing manufacture of wine; such notice must be on paper 8 inches by 10½ inches in size and in stated form. (T. D. 2765; Oct. 21, 1918.)

OATHS.

Particular proceedings.

See specific heads.

OBSOLESCENCE.

Excess profits tax—Allowance in computation of invested capital.

Basis of computation of invested capital is found in amount of cash and other property paid in, which computation must take properly into account surplus and undivided profits; in computation of such surplus and undivided profits recognition must first be given expenses incurred and losses sustained from original organization of business concern down to taxable year, including reasonable allowance for depletion, depreciation, or obsolescence of property originally acquired; if value appreciation of kind not subject to income tax (other than that allowed under

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Excess profits tax—Allowance in computation of invested capital—Contd.

article 55 of Regulations No. 41) has been taken up in accounts, deduction must be made in respect of such appreciation; in computation of invested capital for any year full effect must be given to any liquidation of original capital. (T. D. 2694; art. 42.)

Where through failure to provide for depletion, depreciation, obsolescence, or other expenses or losses, or where for any cause books of account of taxpayer do not show true paid-in or earned surplus and undivided profits, in computation of invested capital such adjustments shall be made as are necessary to arrive at correct amount; where taxpayer claims additions to vcapital account, books of account will be presumed to show true facts, and burden of proof will rest upon taxpayer, and such additions will be accepted only to extent and under certain specifically-stated conditions. (T. D. 2694; art. 64.)

Rules for valuation of tangible property, subject to requirements of article 42 of Regulations No. 41 as to allowance for depletion, depreciation, and obsolescence, stated; presumed that tangible assets employed in the trade or business were acquired with cash either paid in directly or derived from trade or business, but taxpayer entitled to show that such assets were paid in as tangible property. (T. D. 2694; art. 67.)

Income taxes—Deductions.

No deduction from inventory value of merchandise or material will be allowed except where inventory includes goods or materials which, by reason of obsolescence or damage, are unsalable; when such deduction is claimed, facts connected therewith, including statement of cost of goods, value at which they were inventoried, and present condition must be filed with return. (T. D. 2690; art. 160.)

Though no definite rate has been fixed by which deduction on account of depreciation in value of property subject to wear and tear is to be computed, it is contemplated that such allowance shall be computed upon basis of cost of property and probable number of years constituting its life; deduction relates solely to loss due to use, wear and tear, and matter of obsolescence is not relevant. (T. D. 2690; art. 162.)

Depreciation computed on total invoice cost of merchandise in stock is not an allowable deduction, except that if portion of such merchandise is unsalable by reason of obsolescence or damage, depreciation deduction not in excess of decline in value during taxable year will be allowed. (T. D. 2690; art. 169.)

Where a patent becomes obsolete prior to its expiration, corporation may deduct from gross income such proportion of its original cost (less any amount previously charged off) as number of years of its remaining life bears to whole number of years intervening between date it was acquired and date it legally expires. (T. D. 2690; art. 174.)

Where designs, drawings, patterns, or models, for which corporation has made expenditures, result in production of goods which prove to be salable for certain length of time and then become obsolete and can not be sold, amount expended for such designs, etc., less any amounts claimed as depreciation or as return of capital, may be charged off, be included in, and deducted as loss incident to business, provided full and complete information is reported to satisfaction of Commissioner of Internal Revenue. (T. D. 2690; art. 177.)

Amounts representing losses on account of obsolescence of physical property may be included as deduction from gross income as a loss, provided such amounts have been recorded in books following condemnation and withdrawal from use of the obsolete property; amount of obsolescence that may be claimed as deduction shall be ascertained by deducting from cost of property total amount previously claimed and deducted on account of depreciation, plus residual value at time of obsolescence, or plus amount received for sale of property; obsolescence deduction must not include accumulated depreciation applicable to prior years. (T. D. 2690; art. 178.)

Where no depreciation has been charged off and deducted from gross income of prior years, amount allowable as deduction for year in which property becomes obsolete shall be ascertained by deducting from property its residual value plus amount equal to depreciation actually sustained during the prior period and which might have been deducted when computed at rate applicable to same or similar property; amount of such depreciation as applicable to former years may be made basis of amended returns and claim for refund of taxes overpaid by reason of fact that no depreciation deduction was claimed in those years. (T. D. 2690; art. 179.)

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OCCUPATIONAL TAXES.

Act published.

Extract from act of September 8, 1916, relating to taxes on occupations, published for information of internal-revenue officers and others concerned. (T. D. 2364; Sept. 11, 1916.)

Bowling alleys.

Bowling alleys are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of bowling alleys in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

Brokers.

A bank which does not hold itself out to the public as engaged in negotiating purchases or sales of stock, bonds, etc., but merely negotiates the purchase and sale thereof for depositors and other patrons, without remuneration and for their accommodation only, does not thereby incur liability to special tax as a broker. (T. D. 2782; Dec. 24, 1918.)

One who holds himself out as dealing in exchange, and in regular course of business accepts orders and takes them to a bank for execution by the latter, receiving substantial remuneration for his services, is liable to tax as a broker. (T. D. 2785; Jan. 23, 1919.)

A bank which, in addition to its banking business, acts as trustee, receiver, executor, or administrator, or engages in underwriting or promoting new enterprises or refinancing old enterprises, or buys and sells securities on its own account for profit, is subject to tax imposed by first paragraph of section 3 of the act of October 22, 1914, upon total amount of its capital, including surplus and undivided profits, unless it be shown that specific portion of its capital is used in such other business and that such use does not constitute banking. (T. D. 2895; July 21, 1919. Ct. Dec.)

Mere showing that specific portion of the capital, including surplus and undivided profits, is used in such other business is not alone sufficient to show that such capital is not used in banking. (Id.)

Capital stock tax.

See "Capital Stock Tax."

Income taxes—Deduction.

Business or privilege taxes may be deducted either as taxes or items of expense, but not under both heads. (T. D. 2690; art. 8.)

Lecture lyceums.

Statement of matters involved in case of Redpath Lyceum Bureau v. Pickering, in order that decision holding that the Redpath Co. is not a lecture lyceum within eighth subdivision of section 3 of the act of October 22, 1914, may be properly understood. (T. D. 2448; Feb. 14, 1917. Ct. Dec.)

Exemption of lecture lyceums under clause 7 of section 3 of the act of October 22, 1914, does not apply to lecture lyceum bureau which is proprietor of shows or exhibitions. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

The term "lecture lyceums," as used in clause 8 of section 3 of the act of October 22, 1914, defines no well-known method of public entertainment save as the meaning may be gathered from the aggregation of the two words; there is no system of entertainments known as lecture lyceums; it does not include mere independent show units engaged for the occasion, whether shown alone or as an antidote for somnolence. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

Pool tables.

Pool tables are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of pool tables in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

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Post exchanges—Billiard tables, etc.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys operated by them. (T. D. 2439; Jan. 27, 1917.)

"Private home"—Definition.

The words "private home," as used in act of September 8, 1916, were intended to be taken in their common and ordinary meaning as describing individual or family residences; it has accordingly been held that occupation tax is applicable to pool or billiard tables and bowling alleys in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

Schedule.

Revised schedule of occupations subject to tax published for information of internal revenue officers and others concerned. (T. D. 2558; Oct. 26, 1918.)

Theaters.

Where theater proprietor makes return of special tax within time required by law but shows seating capacity to be smaller than it actually is, 50 per cent penalty does not attach to later payment covering same period at proper rate, but if first return was fraudulent liability to 100 per cent penalty will be regarded as incurred; same rule applies where liability to tax at rate lower than that to which taxpayer is actually liable is indicated by misstatement of population of place in which the theater is located. (T. D. 2775; Nov. 29, 1918.)

Where, after payment of special tax, seating capacity of theater is increased beyond that which tax previously paid is sufficient to cover, tax at higher rate must be paid covering period beginning with first day of month in which seating capacity is increased and ending June 30 following; if return disclosing new liability is not made during month in which change takes place, liability to penalty of 50 per cent of new tax is incured; payment of tax at higher rate does not entitle taxpayer to refund of any part of amount first paid. (T. D. 2775; Nov. 29, 1918.)

OIL.

Definition.

The word "oil," as used in subdivision (d) of section 500 of the act of October 3, 1917, means crude petroleum and such of its products as may be transported by pipe line. (T. D. 2676; Mar. 18, 1918.)

Excise taxes.

Floor oils and floor wax are not subject to tax imposed by section 600 (g) of the act of October 3, 1917. (T. D. 2719; Art. XVIII.)

Tax imposed by section 600 (g) of the act of October 3, 1917, is 2 per cent of price for which hair oils are sold by the manufacturer. (T. D. 2719; Art. XVIII.)

Income taxes—Depletion and depreciation.

Section 14 of the act of September 8, 1916, amending section 3225, Revised Statutes, providing that it shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines, does not purport to be retroactive in its operation. (T. D. 2661; Mar. 5, 1918. Ct. Dec.)

In case of lessee, capital to be returned is amount paid in cash or its equivalent as bonus or otherwise by lessee for lease, plus expenses incurred in developing property (exclusive of physical property) prior to receipt of income therefrom sufficient to meet all deductible expenses, after which time as to both owner and lessee, such incidental expenses as are paid for wages, fuel. etc., in connection with drilling of wells and further development of property may be, at option of operator, deducted as operating expense or charged to capital account. (T. D. 2690; art. 170.)

In case of operating fee owner, amount returnable through depletion deductions is fair market value of property (exclusive of cost of physical property) as of March 1, 1913, if acquired prior to that date, or actual cost of property if acquired subsequent to that date, plus, in either case, cost of development (other than cost of physical property incident to such development) up to point at which income from developed territory equals or exceeds deductible expenses. (T. D. 2690; art. 170.)

Essence of sections 5 and 12 of the act of September 8, 1916, as amended by the act of October 3, 1917, is that owner or operator of gas or oil properties shall secure

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Income taxes—Depletion and depreciation—Continued.

through an aggregate of annual depletion deductions the return of amount of capital actually invested, or amount not in excess of fair market value as of March 1, 1913, of properties owned prior to that date. (T. D. 2690; art. 170.)

As to both fee owner and lessee, capital invested in physical property, upon which depreciation deduction is computed, should be segregated in books of account from that invested in oil or gas territory or in lease or leases, with respect to which deduction for depletion or return of capital is claimed, and credits for depreciation may be made in same manner as provided for depletion. (T. D. 2690; art. 170.)

Both owners and lessees operating oil or gas properties will, in addition to and separate from deduction allowable for depletion or return of capital, be permitted to deduct reasonable allowance for depreciation of physical property, such as machinery, tools, equipment, pipes, etc., amount deductible on this account to be such an amount, based upon its capitalized value (cost) equitably distributed over its useful life, as will bring it to its true salvage value when no longer useful for purpose for which property was acquired. (T. D. 2690; art. 170.)

Where operator is owner of fee, value determined and set up as of March 1, 1913, or cost of property if acquired subsequent to that date, or, if operator is lessee, actual amount paid for lease, plus, in case of both owner and lessee, cost of subsequent development, exclusive of physical property, if such cost is capitalized, will be basis for determining depletion deduction or deduction for return of capital for all subsequent years during continuance of ownership under which value was fixed or by which investment was made; during such ownership there can be no revaluation for purpose of deduction if it should be found that quantity of oil or gas was underestimated at the time value was fixed or property was acquired, or at time lease contract was entered into or purchased. (T. D. 2690; art. 170.)

If quantity of oil or gas can not be determined with certainty, depletion deduction will be computed in accordance with rules set out in T. D. 2447, except that lessees may compute deductions for return of capital (cost of lease and development) in same manner as owners in fee; that is, they may extinguish such capital on basis of reduction in flow and production as compared with preceding year, or, in case of leasehold properties brought in or developed during year, depletion deduction may be computed on basis of decline in settled flow and production, as evidenced by tests and gauges made at end of year as compared with similar tests and gauges made at time settled flow was determined; for purpose of computing depletion territory comprehended in given lease will be considered unit with respect to which depletion deduction may be claimed and allowed. (T. D. 2690; art. 170.)

Every individual or corporation entitled to deduction on account of depletion or for return of capital invested shall keep accurate ledger account, in which, in case of fee owner, shall be charged fair market value as of March 1, 1913, or cost, if acquired subsequent to that date, of oil or gas property, plus cost of development, or, in case of lessee, amount actually originally invested in lease and its development; this amount shall be credited as amount claimed each year as deduction on account of depletion or as return of capital, to end that when credits to account equal debits no further deductions on either account, with respect to this property and capital invested therein, will be allowed; or, in lieu of direct credit to property account, amounts so claimed and allowed as deduction may be credited to depletion reserve account. (T. D. 2690; art. 170.)

Estimate subject to approval of Commissioner of Internal Revenue, required to be made of probable quantity of oil or gas contained in or to be recovered from territory with respect to which investment is made; invested capital will be divided by number of units of oil or gas so estimated, and quotient will be per unit cost or amount of capital invested in each unit recoverable; this quotient, when multiplied by number of units removed from territory in one year, will determine amount which will be allowably deducted from gross income for that year on account of depletion or as return of invested capital until total of such deductions shall equal capital invested. (T. D. 2690; art. 170.)

If individual or corporation charges expense of drilling wells or further development to capital account, the same, in so far as expense is represented by physical property, may be taken into account in determining reasonable allowance for depreciation during each year until property account thus augmented has been extinguished through annual depreciation deductions, after which no further deduction on this account will be allowed; in case of a going or producing business, cost of drilling nonproductive wells may be deducted from gross income as operating expense. (T. D. 2690; art. 170.)

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Income taxes—Continued.

—— Returns.

Individual or corporation owning and operating oil or gas properties required to attach to each return a statement showing certain specified data; if operator is lessee that fact should be stated, and to return made by such lessee there should be attached a statement showing certain specified matters. (T. D. 2690; art. 170.)

Transportation—Application of tax.

Where a person, corporation, partnership, or association, engaged in business, for the account of himself or itself, transports oil by pipe line, and, at times, for hire, furnishes such facility for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier within the meaning of the word as used in Title V of the act of October 3, 1917, and tax imposed by section 501 applies, whether for his or its account or for the account of others; when facility is used exclusively for transporting property of proprietor, and not for hire, proprietor is not a carrier. (T. D. 2676; Mar. 18, 1918.)

—— Computation of tax.

Where proprietor of pipe line, at times, for hire, transports oil of another, basis of computation of tax shall be current lawful rates of carrier and, in absence thereof, current lawful rates of carriers for like service; if basis of tax can not be readily determined in manner stated, facts should be forthwith reported by carrier to Commissioner of Internal Revenue for his determination. (T. D. 2676; Mar. 18, 1918.)

OLEOMARGARINE.

Packages.

Manufacturers permitted to use as original containers for packing oleomargarine paper or fiber boxes, provided boxes are durable and of substantial character; provisions of existing regulations governing marking and branding and affixing and canceling of tax-paid stamps declared applicable to original packages of paper or fiber, except that such stamps may be affixed by paste or glue, without addition of tacks, staples, or brads, and without using shellac or other waterproofing material to cover the stamps; such original containers to be of such texture as will meet requirements for transportation of common carriers under existing classifications; manufacturers and wholesalers permitted to sell only in original packages, and retailers must sell only from original stamped package in quantities not exceeding 10 pounds and shall pack oleomargarine sold by them in suitable wood or paper retail packages properly marked and branded; par. 1, page 44, Regulations No. 9, amended. (T. D. 2764; Oct. 21, 1918. T. D. 2774; Nov. 19, 1918.)

Paragraph 1, page 42, Regulations No. 9, relative to affixing caution notices, Form 219, to original oleomargarine containers, modified to permit of such notices being printed on the container, instead of affixing such notices by means of a label; modification is not mandatory, and manufacturers may adopt either of the approved methods of affixing said labels as meets their convenience. (T. D. 2968; Feb. 4, 1920. T. D. 3025; June 2, 1920.)

Records.

All transactions involving withdrawal or sale of oleomargarine must be entered by manufacturer or wholesale dealer on Government record books 60 or 61, as case may be (or Forms 216 or 217 if substituted for record 60 or 61), in the order and at the time they occur, sales to wholesalers to be segregated and reported on separate pages in last part of monthly return; effective on and after July 1, 1917. (T. D. 2502; June 22, 1917.)

Withdrawal for use of United States—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district, and State, the number of original or statutory packages and contents of each, and the number of inner packages, if any, and weight of each, shall be set forth in each application as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner;

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Withdrawal for use of United States—Application—Continued.

application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

—— Bills of lading.

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the collector will forward original certificate of receipt, with the other copy of bill of lading, to the Commissioner with his monthly statement of account as a voucher for credit taken therein. (T. D. 2982; Jan. 22, 1920.)

—— Bond for transportation and delivery.

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33, executed in duplicate, and the duplicate form to be attached to the duplicate bond; the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

—— Certificate of receipt by Government officer.

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within 30 days of date of withdrawal; where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— Collector's account; credit on bond.

The bond covering the total quantity of product requisitioned will be credited by the collector upon receipt by him of certificate on Form 667, and the collector will forward the original certificate of receipt to the Commissioner with his monthly statement of account as a voucher for credit taken therein. (T. D. 2982; Jan. 22, 1920.)

—— Departmental requisition.

Whenever oleomargarine is purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

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Withdrawal for use of United States—Continued.

—— **Entries in manufacturer's records and reports.**

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— **Packing, branding, or stenciling.**

Oleomargarine, put up in cartons or other packages of less than 10 pounds each, must be inclosed in packages of not less than 10 pounds each, as required by section 6, act of August 2, 1886, and each such statutory package shall, in addition to branding and stenciling required by other regulations, have branded or stenciled thereon "For use of U. S. Government," together with number of permit and date thereof, the letters and figures therein to correspond in size and style with other stenciling required by such other regulations. (T. D. 2982; Jan. 22, 1920.)

—— **Permit.**

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else request should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

ORCHESTRAL CONCERTS.

Admissions—Cabarets.

The words "cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, include every hotel, or room therein, restaurant, hall, or other public place, at or in which, in connection with service or sale of food or other refreshments or merchandise, any vaudeville or other performance or diversion in way of acting, singing, declamation, or dancing, either with or without instrumental or other music, is conducted; every form of entertainment so conducted is included, except that furnished by orchestras such as were usual in hotels and restaurants before advent of cabarets, performing instrumental music only, unaccompanied by any other form of entertainment. (T. D. 2681; Mar. 26, 1918.)

ORGANIZATION EXPENSES.

Definition.

"Organization expenses" constitute a capital investment, such expenses being offset by the asset value of the corporate franchise, an intangible asset of a somewhat permanent character and in many instances of substantial value. (T. D. 2499; June 11, 1917.)

ORGANIZED FOR PROFIT.

Definition.

A corporation is organized for profit, within act September 8, 1916, if its stockholders or members may benefit pecuniarily from its operations. (T. D. 2750, art. 2; Aug. 9, 1918.)

OTHER SIMILAR PLACES.

Definition.

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

OUTDOOR GENERAL AMUSEMENT PARKS.

Admissions tax.

See "Admissions."

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Definition.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes—" (T. D. 2681; Mar. 26, 1918.)

OUTSTANDING STOCK.

Definition.

Capital stock that has once been issued by a corporation is regarded as being "outstanding," even though it is afterwards acquired by the company for value and carried on the books as treasury stock. (T. D. 2417; Dec. 16, 1916.)

OWNERSHIP.

See "Title."

Certificates.

See "Certificates of Ownership."

PAID.

Definition.

"Paid" or "actually paid," within meaning of Title I, of the act of September 8, 1916, as amended by the act of October 3, 1917, does not necessarily contemplate that there shall be an actual disbursement in cash or its equivalent; if amount involved represents actual expense or element of cost in production of income of year, it will be properly deductible even though not actually disbursed in cash, provided it is so entered upon books of company as to constitute a liability against its assets, and provided further that income is returned upon an accrued basis. (T. D. 2690; art. 126.)

PANAMA CANAL.

Commission—Wine tax.

Wines purchased for use of United States or for Panama Canal Commission may be delivered free of tax; applications for necessary withdrawal permitted in such cases, should be made under section 3464, Revised Statutes. (T. D. 2387; Oct. 30, 1916.)

Taxes imposed by sections 313, 315, and 600 of the act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.

Exportation of wines.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philippine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D.) 2387; Oct. 30, 1916.)

Stamp tax on drafts.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not

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Stamp tax on drafts—Continued.

otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

Transportation tax.

Transportation of property by water from port of the United States to Porto Rico, Philippine Islands, the Virgin Islands, and the Canal Zone is not subject to transportation tax imposed by section 500 of act of October 3, 1917; rail transportation of property from interior point in United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal-revenue taxes by reason of special acts of Congress; such transportation of property destined to the Canal Zone is not exempt. (T. D. 2795; Feb. 26, 1919.)

PARCEL POST.

Stamp taxes.

Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

PARENT AND CHILD.

Admissions.

Tax imposed by section 700 of the act of October 3, 1917, on the admission of children under 12 years of age, must be collected in all cases at the full rate of 1 cent for each 10 cents or fraction thereof, except where distinctive tickets are issued for children under 12 years, or tickets for their use are indelibly stamped to show that they are good only for the admission of children under 12 years, or where, in absence of tickets, tax is paid at time of admission of children under 12 years; children under 12 years of age when admitted free are not taxable. (T. D. 2681; Mar. 26, 1918.)

Children under 12 years of age when admitted free are not taxable under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Deduction of allowances.

As a rule, allowances which father gives to his minor children, whether said to be in consideration of service or otherwise, are not allowable deductions in return of income, nor are they income to the children. (T. D. 2690; art. 8.)

—— Exemptions.

Exemption of $200 for each dependent child provided by section 7 of act of September 8, 1916, as amended, is given in respect of income tax, and is, therefore, applicable under both the act of September 8, 1916, as amended, and the act of October 3, 1917, under same conditions of fact. (T. D. 2690; art. 14.)

—— Returns.

Fiduciaries acting for minors or other incompetents required to make returns, in cases arising under section 2 (b) of the act of September 8, 1916, as amended, when income of estate or trust, as an entity, is $1,000 or over, return to be made on Form 1040 or 1040A; fiduciaries must make returns on Form 1041 whenever interests of beneficiary in net income of estate or trust is $1,000 or over for an unmarried beneficiary, and whenever interest of married beneficiary is $2,000 or over. (T. D. 2690; art. 27.)

Fiduciaries acting for minors or other incompetents, required to make returns according to marital status of beneficiary; whenever interest of beneficiary in net income of estate or trust is $1,000 or over, for an unmarried beneficiary, or in case of married beneficiary, whenever interest is $2,000 or over, fiduciaries are required to make return. (T. D. 2690; art. 27.)

Income received by minor child from sources other than parent should be included by parent in his return; fact that such income is not appropriated by parent is immaterial; where income is from separate estate and parent has been appointed guardian, and conditions are such that income so received is to be held for use of child, it shall not be included in parent's return, but shall be accounted for otherwise for purposes of tax, in manner and form as called for by facts of particular case. (T. D. 2690; art. 29.)

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PARKS.

Outdoor general amusement parks.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

A dance hall located within an outdoor general amusement park loses its character as an "amusement within an outdoor general amusement park" during those seasons when the various other amusement ventures connected with the park are not operated, and admissions to such a dance hall are taxable if the charge for admission exceeds 5 cents. (T. D. 2782; Dec. 24, 1918.)

Exemption of charges which are in fact for privilege of using equipment in amusement parks is intended to apply to those cases where use by the patron is direct, personal, and independent, and therefore not to merry-go-rounds. (T. D. 2782; Dec. 24, 1918.)

Zoological parks.

Admission to public zoological parks and other entertainment enterprises conducted by or under direction of Government or State, or political subdivision of either, are not taxable. (T. D. 2681; Mar. 26, 1918.)

PARTIAL PAYMENTS.

Advance payments of taxes.

Instructions with reference to time for making advance payments in installments or in whole, of income and excess-profits taxes under section 1009 of act of October 3, 1917; interest on payments; ascertainment of fourth installment; receipt to taxpayer; refund of excess payment; entries to be made on specified forms; interest table. (T. D. 2622; Dec. 26, 1917. T. D. 2674; Mar. 18, 1918.)

Income taxes—Gross income.

Where corporation sells property on installment plan, title passing at time of sale, again to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

Corporation selling merchandise on installment basis, title passing to vendee at time of sale, will treat such contracts as accounts receivable and as sales during the year at their face value, accounting for as income the difference between the cost and sales price. (T. D. 2690; art. 120.)

—— Net income.

Where buyer of property of corporation sold on installment plan, title passing at time of sale, forfeits his contract and fails to meet any of the payments contracted to be made, selling corporation may deduct from its gross income as a loss such proportion of defaulted payments as was previously returned as gross income. (T. D. 2690; art. 116.)

PARTNERSHIP.

Capital stock tax.

Pennsylvania partnerships with limited liability and similar so-called limited partnerships or partnership associations having perpetual succession and capable of taking title to real estate and suing in common name, are subject to tax imposed by act September 8, 1916, although they may not issue stock certificates to evidence the shares of the members. (T. D. 2750, art. 2, Appendix A; Aug, 9, 1918.)

Limited partnerships of the New York type, having practically no characteristics of a corporation or joint-stock company except limited liability as to some of the partners, are not within scope of tax imposed by act September 8, 1916. (T. D. 2750, art. 2; Aug. 9, 1918.)

Common-law partnership—Definition.

Common-law partnerships are not associations within the meaning of the income-tax law. (T. D. 2690; art. 63.)

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Excess profits tax—Computation.

Where taxpayer who is engaged in a trade or business, net income from which is subject to taxation at rate of 8 per cent, imposed by section 209 of the act of October 3, 1917, makes return for period of less than 12 months, the deduction of $3,000 or $6,000 allowed under that section will be reduced to an amount which bears the same ratio to such full deduction as the number of months in the period bears to 12 months; this ruling applies only in case of taxpayer who is entitled to make return for period of less than a full year, and is not to be construed as authorizing a corporation or partnership which has already established fiscal year ending in 1917, but part of which falls within 1916, to compute the tax in any other manner than as prescribed in article 19 of Regulations 41. (T. D. 2689; Apr. 1, 1918.)

Where taxpayer who is engaged in trade or business, net income from which is subject to taxation at rates imposed by section 201 of the act of October 3, 1917, makes return for period of less than 12 months, the invested capital used, in applying the rates of tax, will be an amount which bears the same ratio to such full average invested capital as the number of months in the period for which the return is made bears to 12 months; this ruling applies only in case of taxpayer who (because of having just established a fiscal year, or of having just organized or engaged in business, or for other like reasons) is entitled to make return for period of less than full year, and is not to be construed as authorizing a corporation or partnership which has already established a fiscal year, ending in 1917, but part of which falls within 1916, to compute its tax in any other manner than as prescribed in article 19 of Regulations 41. (T. D. 2689; Apr. 1, 1918.)

—— Fiscal year.

Partnership whose fiscal year ended with last day of any month in 1917 other than December, may, not later than 30 days before March 1, 1918, give to collector of district in which its principal place of business is located, notice in writing of date thus fixed as closing of fiscal year; unless such notice is given, income tax return for purposes of excess-profits tax shall be filed upon basis of calendar year 1917. (T. D. 2632; Jan. 21, 1918.)

Where partnership keeps its books upon basis of fiscal year ending on last day of any month other than December 31, and it is impracticable to make satisfactory return upon basis of calendar year collector may accept return upon basis of its fiscal year, even though notice was not given not later than 30 days before March 1, 1918, as prescribed by T. D. 2632; if partnership has already filed return upon basis of calendar year, collector may accept amended return upon basis of fiscal year. (T. D. 2677; Mar. 23, 1918.)

—— Invested capital.

In determining liability under section 209 of the act of October 3, 1917, income derived from a single timber-land deal by a partnership, whose principal business is dealing in lumber, can not, by reason of section 201 of the act, be considered and treated separate and apart from other partnership income or profits. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

The term "invested capital," as used in section 209 of the act of October 3, 1917, includes all working capital consisting of money or property employed in the business or for its benefit, and furnished or paid in by one or more of the partners. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Where, during the year 1917, a partnership had invested capital, as above defined, more than nominal in amount, excess profits taxes upon its income could not be assessed at the lower rate provided by section 209 of the act of October 3, 1917. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

A partnership which had invested capital more than nominal in amount can not complain of regulations promulgated or of the method employed in determining the amount of such capital, where the arbitary or supposititious invested capital fixed upon was larger in amount than the invested capital actually possessed and employed, and the taxes imposed were correspondingly diminished. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Members of a partnership who are paid neither a salary nor commissions for their services, but who buy and sell lumber and undertake and assume all the risks and enjoy all the benefits of a merchandising business, employing a large amount of capital, are not brokers. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

Property of member of partnership deposited with bank and pledged as collateral security for the repayment of a loan by or for the benefit of the partnership in pursurance of the articles of partnership is part of the invested capital of such partnership. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

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Excess profits tax—Continued.

—— Net income.

Investments in obligations of United States by partnership from capital, surplus, or undivided profits will be included in invested capital for purpose of computing deduction and rate of taxation under excess-profits tax law; but undivided profits earned during the taxable year can not be included in invested capital. (T. D. 2541; Oct. 20, 1917.)

In any case in which deduction provided for in sections 203, 204, 205, or 210, of act of October 3, 1917, is greater than 15 per cent of the invested capital and therefore can not be fairly allowed under the first rate or bracket of section 201, any remaining portion of the deduction will be allowed under the second bracket and continued if necessary into succeeding bracket or brackets until entire amount of deduction is allowed. (T. D. 2602; Dec. 3, 1917.)

In computing net income, partnership allowed to deduct as an expense reasonable salaries or compensation paid partners for personal services; as to foreign partnerships deduction limited to those portions of salaries or compensation which are paid for services rendered with respect to trade or business carried on in United States; partner in individual capacity is subject to excess-profits tax, if any, at the 8 per cent rate under section 209 of act of October 3, 1917, with respect to salary or compensation from partnership for personal services (including any amounts allowed to partnership as deduction for payment prior to Mar. 1, 1918.) (T. D. 2611; Dec. 20, 1917. T. D. 2612; Dec. 20, 1917.)

In computing net income partnership will be allowed to deduct amounts paid during year to individual partner as interest upon any bona fide loan, but no deduction for so-called interest upon capital will be recognized. (T. D. 2613; Dec. 20, 1917.)

—— Returns.

A partnership, entitled to make return for period of less than full year, will be required to make such return if the net income for such period is at the rate of $6,000 per year or more. (T. D. 2689; Apr. 1, 1918.)

Partnerships having a net income of $6,000 or over required to render returns for purpose of excess-profits tax. (T. D. 2690; art. 30.)

—— Taxability.

A partner in individual capacity not considered as engaged in trade or business with respect to his share in profits of partnership, and consequently not subject to excess-profits tax thereon. (T. D. 2612; Dec. 20, 1917.)

In case of excessive payments by individuals or partnerships amounts allowed should ordinarily be treated as partnership shares and would thus be free from excess-profits tax to recipient. (T. D. 2696; Apr. 10, 1918.)

Income taxes—Basis.

Partnership shall have privilege of fixing and making return on basis of fiscal year; if fiscal year (other than calendar year) ends in a calendar year for which there is a rate of tax different from the rate for preceding calendar year, each partner's share of partnership profits shall be divided in proportion of different calendar years composing said fiscal year, and rate of tax for respective calendar years shall apply to that part of such profits as thus falls within said calendar years; partnership may designate last day of any month as close of fiscal year, and in each case where fiscal year differs from calendar year partnership shall, not less than 30 days prior to March 1, give notice in writing to collector that day thus designated is closing day of fiscal year. (T. D. 2690; art. 31.)

The income-tax law of 1913 is so framed as to deal with gains and profits of a partnership as if they were the gains and profits of the individual partners. (T. D. 2858; June 9, 1919. Ct. Dec.)

—— Exemptions.

Character of partnership profits divisible between persons has no reference (except as otherwise specially provided for in section 8 (e) of the act of September 8, 1916, as amended) to any character which, as income accruing to partnership, it may have borne prior to receipt by partnership, and hence, with exception noted, income received by partnership can not be traced to source beyond partnership for purpose of claiming individual exemption. (T. D. 2690; art. 30.)

When income of partnership is taxable to individual partners, as under present income-tax law, each partner is treated as owner of proportionate part of Liberty loan bonds held by partnership and entitled to exemption on account of such ownership as if such partner owned such proportionate part of bonds directly. (T. D. 2762; Oct. 18, 1918.)

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Income taxes—Continued.

—— **Exemptions**—Continued.

When income of partnership is taxable to partnership as such, as under present excess-profits tax law, partnership is treated as owner of Liberty loan bonds held by it and entitled to exemption from taxes assessed upon income of partnership as such. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed upon individual partner on share of partnership income such partner, if partner at time of original subscription by partnership for bonds of Fourth Liberty Loan, is treated as original subscriber for proportionate part of such bonds and is entitled to collateral exemption of interest on bonds of previous issues, as if he had subscribed directly for such proportionate part. (T. D. 2762; Oct. 18, 1918.)

With reference to tax assessed to partnership upon partnership income as a whole, such partnership is original subscriber and entitled to collateral exemption of interest on Liberty bonds of previous issues on account of such original subscription for bonds of Fourth Liberty Loan. (T. D. 2762; Oct. 18, 1918.)

—— **Imposition of tax.**

Partnerships, as such, are exempt from income tax on net income; partners must include respective shares of partnership income (whether distributed or not) in returns required of each partner; section 8 (e) prescribes method of computation for both partnerships and partners for purpose of income tax. (T. D. 2690; art. 3.)

Salaries, etc., and rents paid by domestic corporations, resident individuals, or partnerships, to nonresident alien employees for services rendered entirely in a foreign country and for property located in a foreign country, are not subject to deduction and withholding of the normal tax, and such payments of income will not be subject to tax in hands of recipient as from source within United States. (T. D. 2690; art. 32.)

—— **Net income.**

Premiums paid on life insurance policies covering lives of officers, employees, or those financially interested in any business conducted as a partnership, or by an individual, shall not be deducted in computing net income of such individual or in computing profits of such partnership for purpose of paragraph (e) of section 8 of the act of September 8, 1916, as amended. (T. D. 2690; art. 30.)

Where result of partnership operation is a net loss, loss will be divisible between partners in same proportion as net income would have been divisible, and may be used by individual partners in their returns of income. (T. D. 2690; art. 30.)

Amount of dividends received by partners shall be allowed as a credit for purpose of computing normal income tax. (T. D. 2690; art. 30.)

Amounts expended by partnerships engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Member of partnership need not include as part of net income subject to normal tax, income tax law of 1913, such of his income derived from or through a partnership as has been received by partnership in shape of dividends on stocks owned by it in corporations taxable upon their net income. (T. D. 2858; June 9, 1919. Ct. Dec.)

Member of firm engaged in business of manufacturing is not entitled under Section II, subdivision B, act October 3, 1913, to deduct from his gross income loss sustained from sale of shares of stock. (T. D. 3029; June 19, 1920. Ct. Dec.)

The language "losses * * * incurred in trade," as used in Section II, subdivision B, act of October 3, 1913, means losses incurred in the actual business of the taxpayer as distinguished from isolated transactions. (T. D. 3029; June 19, 1920. Ct. Dec.)

—— **Returns.**

Income of partnership accrues to individual partner at time his distributive interest is determined; returns by individuals should include incomes accruing from business of partnerships for business years of partnerships as may have been definitely ascertained by means of book balance, whether distributed or not; partners must make returns of income as individuals, for calendar year, and should include

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Income taxes—Continued.

—— Returns—Continued.

their interest in profits ascertained at end of business year falling within calendar year for which individual return is being rendered. (T. D. 2690; art, 4.)

Individuals entitled to share in partnership net income required to include in their returns their respective shares of such net income, whether distributed or not; partners will exclude such part of net income as may have been received by partnership from sources exempt fron tax under section 4 of the act of September 8, 1916, as amended, and which shall have been included by partnership in its statement of net income distributed to partners; partners shall include proportionate share of partnership net income derived from dividends. (T. D. 2690; art. 30.)

When it shall appear from disclosure that actual owner of stock of domestic corporation or resident alien corporation is nonresident alien partnership, all certificates making disclosure shall be transferred to the commissioner for information of collector, but no return will be made by such partnership, and no amount will be retained by the representative of such partnership in the United States, unless and until such representative shall be so instructed by the commissioner. (T. D. 2690; art. 32.)

Time for filing returns extended to August 15, 1919, as to partnerships and personal service corporations having fiscal year ended January 31, February 28, March 31, or April 30, 1919. (T. D. 2883; July 9, 1919.)

Return of partnership shall be open to inspection by officers and employees of Treasury Department whose official duties require such inspection and by the Solicitor of Internal Revenue; and by any individual (or his duly constituted attorney in fact or legal representative) who was member of such partnership during any part of time covered by the return, upon satisfactory evidence of such fact being furnished. (T. D. 2961; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

—— Withholding normal tax.

Form 1001, revised, shall be used when personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of United States, and when presenting coupons from bonds not containing tax-free covenant; by domestic partnerships, corporations, or associations; by nonresident alien partnerships; and by foreign corporations having office or place of business in United States, whether or not such bonds contain tax-free covenant. In case citizens or resident individual receives interest on bond containing tax-free covenant in excess of amount of personal exemption which individual may claim, any such excess must be reported on Form 1000, revised. (T. C. 2690; art. 43.)

Limited partnership—Definition.

Limited partnership in partnership having one or more special partners who may share in profits of firm but whose liability for debts of company is limited to amount of capital invested by such special partner or partners. (T. D. 2690; art. 62.)

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

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"Person" includes, when.

The word "person" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

Wine makers.

Wines made by a partnership or those produced by a winery owned and operated by several heads of families jointly are not exempt from tax under section 402 (b) of act September 8, 1916, as being for family use. (T. D. 2765; Oct. 21, 1918.)

PASSENGER TRANSPORTATION.

See "Transportation Tax."

PASSES.

Places of entertainment.

See "Admissions."

PATENTS.

Excess profits tax—Invested capital.

Patents paid in for stock or shares must be valued at either actual cash value at the time of payment or the par value of the stock or shares issued therefor, whichever is lower. (T. D. 2694; art. 56.)

Rules governing cases where stock or shares (or stock or shares and bonds or other obligations) have, prior to March 3, 1917, been issued for a mixed aggregate of tangible property, patents and copyrights, and good will or other intangible property, stated. (T. D. 2694; art. 59.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property. (T. D. 2694; art. 66.)

Patents and copyrights, and good will, trade-marks, trade brands, franchises and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

Income taxes—Net income.

Corporation disposing of patents by sale should determine profit or loss arising therefrom by computing difference between selling price and the cost or value as of March 1, 1913, if acquired before that date; apparent profit or loss should be increased or decreased, as case may be, by amounts deducted since March 1, 1913, as return of capital invested in such patents. (T. D. 2690; art. 109.)

Owner of patent may deduct from gross income each year, until capital invested therein is extinguished, sum ascertained by dividing cost of patent by number of years constituting its life or by number representing years of its life remaining after date of acquirement. (T. D. 2690; art. 113.)

Royalties received in accordance with contract by which corporation has assigned patent rights to manufacture machines, etc., are income and should be so accounted for. (T. D. 2690; art. 113.)

Corporations disposing of patents by sale should determine profit or loss by computing difference between selling price and value as of March 1, 1913, if acquired prior to that date, or between selling price and cost, if acquired subsequent to such date; profit or loss thus ascertained should be increased or decreased, as case may be, by amount deducted on account of depreciation of such patents since March 1, 1913, or since date of purchase if acquired after that date. (T. D. 2690; art. 157.)

Where a patent becomes obsolete prior to its expiration, corporation may deduct from gross income such proportion of its original cost (less any amount previously charged off) as number of years of its remaining life bears to whole number of years intervening between date it was acquired and date it legally expires. (T. D. 2690; art. 174.)

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Income taxes—Net income—Continued.

Deduction for any given year for return of capital invested in patents at time of issue will be an amount equal to one-seventeenth of actual cost, in cash or its equivalent, of such patents; where patent has been secured from Government, its cost will be represented by various Government fees, cost of drawings, models, attorney's fees, etc., actually paid, but where patent has been purchased for cash consideration, amount paid therefor would represent capital invested therein; where payment for patent was made in stocks or other securities, actual cash value of such stock or securities at time of purchase will represent cost or capital invested; if patent was purchased after part of its life had expired, cost for purpose of deduction for return of capital will be ratably spread over remaining years of its life; in determining amount deductible on account of expiring life, only actual cost and not estimated value as of March 1, 1913, or any other date, will be considered. (T. D. 2690; art. 174.)

PATENT MEDICINES.

See "Proprietary Medicines."

PAYMENT.

Paying agents.

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

Taxes.

See specific heads.

PEDDLERS.

Tobacco.

Act of September 7, 1916, amending subsection 11 of section 3244, Revised Statutes, defining "peddler" of tobacco, published for information of internal-revenue officers and others concerned. (T. D. 2376; Oct. 3, 1916.)

PENALTIES.

Violation of laws and regulations.

See specific heads.

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PENNSYLVANIA PARTNERSHIPS.

Capital stock tax.

Pennsylvania partnerships with limited liability and similar so-called limited partnerships or partnership associations, having perpetual succession and capable of taking title to real estate and suing in common name, are subject to tax imposed by act September 8, 1916, although they may not issue stock certificates to evidence the shares of the members. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

PENSIONS.

Income taxes.

Pensions paid by United States, private institutions, or individuals are to be accounted for in all cases where income of pensioner is liable for income tax. (T. D. 2690; art. 4.)

Amounts paid for pensions to retired employees or to their families or others dependent on them, or on account of injuries received by employees, or lump-sum amounts paid as compensation for injuries, are proper deductions as ordinary and necessary expenses; such deduction shall be limited to amount not compensated for by insurance or otherwise; no deduction shall be made for contributions to pension fund resources of which are held by corporation, amount deductible in such case being amount actually paid to employee. (T. D. 2690; art. 136.)

PERFUMERY.

See "Toilet Preparations."

PERISHABLE PROPERTY.

Sales by carriers.

If perishable consignment be sold under emergency conditions for benefit of whom it may concern, net amount realized therefrom shall be considered transportation charge, and 3 per cent tax shall apply to such amount and be paid by the purchaser; provided, however, that if such amount be in excess of actual transportation charges tax shall not apply to such excess. (T. D. 2676; Mar. 18, 1918.)

PERSON.

Definition.

The word "person" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

The word "person" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes the plural as well as the singular, and refers to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

Term "person," when used in Regulations No. 38, includes such partnerships, corporations, or associations as are engaged in manufacture in the United States and in the sale or disposition of articles enumerated in section 301 of Title III of the act of September 8, 1916, or parts thereof. (T. D. 2384; art. 1.)

PERSONAL INJURIES.

Income taxes—Damages.

Amount received as result of suit or compromise for personal injury, being similar to proceeds of accident insurance, must be accounted for as income. (T. D. 2690; art. 4.)

Amount received by individual as result of suit or compromise for personal injuries sustained by him through accident is not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

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Income taxes—Continued.

—— Insurance policy proceeds.

Proceeds of accident insurance policy received by individual on account of personal injuries sustained through accident are not income taxable under Title I of act September 8, 1916, as amended by Title XII of act October 3, 1917, and of Title I of act October 3, 1917. (T. D. 2747; July 12, 1918.)

—— Pensions.

Amounts paid for pensions to retired employees or to their families or others dependent on them, or on account of injuries received by employees, or lump-sum amounts paid as compensation for injuries, are proper deductions as ordinary and necessary expenses; such deduction shall be limited to amount not compensated for by insurance or otherwise; no deduction shall be made for contributions to pension fund resources of which are held by corporation, amount deductible in such case being amount actually paid to employee. (T. D. 2690; art. 136.)

PETROLEUM.

See "Oil."

Definition.

The word "oil," as used in subdivision (d) of section 500 of the act of October 3, 1917, means crude petroleum and such of its products as may be transported by pipe line. (T. D. 2676; Mar. 18, 1918.)

Jelly—Excise tax.

Tax imposed by section 600 (g) of the act of October 3, 1917, is 2 per cent of price for which petroleum jellies are sold by manufacturer. (T. D. 2719; Art. XVIII.)

Transportation—Application of tax.

Where a person, corporation, partnership, or association, engaged in business for the account of himself or itself, transports oil by pipe line and at times for hire furnishes such facility for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier within the meaning of the word as used in Title V of the act of October 3, 1917, and tax imposed by section 501 applies, whether for his or its account or for the account of others; when facility is used exclusively for transporting property of proprietor and not for hire proprietor is not a carrier. (T. D. 2676; Mar. 18, 1918.)

—— Computation of tax.

Where proprietor of pipe line at times, for hire, transports oil of another, basis of computation of tax shall be current lawful rates of carrier and in absence thereof, current lawful rates of carriers for like service; if basis of tax can not be readily determined in manner stated facts should be forthwith reported by carrier to Commissioner of Internal Revenue for his determination. (T. D. 2676; Mar. 18, 1918.)

PHARMACISTS.

Alcohol.

Preparations such as aromatic elixirs, tincture of aromatica and similar preparations used by physicians and pharmacists principally as vehicles, even though potable, may be sold in good faith for legitimate uses without payment of special tax, provided they are made in conformity with U. S. P. or N. F. (T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

Use of alcohol by manufacturing chemists or flavoring extract manufacturers recovered from dregs or marc of percolation or extraction in any other manner than that prescribed by section 3246, Revised Statutes, as amended by act March 3, 1915, without payment of special tax, will not be permitted. (T. D. 2760; Oct. 9, 1918.)

Apothecaries will not be charged with liability to special tax on account of sale in quantities not exceeding one pint of alcohol for bathing or antiseptic purposes, provided it is compounded prior to sale, but not in bulk or in advance of orders, in such manner as to make it unfit for use as beverage; approved formulas for purpose of rendering alcohol unfit for beverage stated; containers of alcohol treated in such manner must bear "poison" labels. (T. D. 2760; Oct. 9, 1918.)

Where nonbeverage alcohol is used in manufacture of U. S. P. or N. F. preparations, such as aromatic elixirs, tincture of aromatica, etc., container must bear label

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Alcohol—Continued.

upon which shall appear prescribed statement. (T. D. 2760; Oct. 9, 1918. T. D. 2788, Feb. 6, 1919.)

Apothecaries who make sales of alcoholic liquors not compounded in such manner as to render them unfit for beverage purposes, even though under physicians' prescriptions and for purely medicinal purposes, will be held liable to special tax; such persons should, for their own protection, see that prescriptions requiring use of alcoholic liquors also show other ingredients added and rendering compounds unfit for beverage use. (T. D. 2760; Oct. 9, 1918.)

A pharmacist is in no sense a denaturer of alcohol. (T. D. 2576; Nov. 10, 1917.)

Pharmacists who hold permit and have given bond permitted to sell nonbeverage alcohol without physician's prescription to persons who do not hold permits and who have not given bonds, in quantities not exceeding 1 pint, but not in advance of orders, provided they first medicate same in accordance with any one of certain formulas; container of such alcohol to bear "Poison" label. (T. D. 2576; Nov. 10, 1917; T. D. 2788, Feb. 6, 1919.)

So-called nonbeverage alcohol taxable at rate of $2.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of prescription compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Every physician or other person desiring to purchase or use homeopathic attenuations, potencies, or dilutions, or nonbeverage alcohol for making same, must qualify by filing bond and obtaining permit except that homeopathic physician or any other person may obtain from pharmacist not exceeding 2 drachms of any attenuation, etc., at one time without filing bond and obtaining permit; physician may dispense such attenuations, etc., in quantities ordinarily prescribed to patients and such patients need not file bonds or hold permits. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Homeopathic pharmacists, in order to obtain and use nonbeverage alcohol in manufacture of potencies, attenuations, or dilutions, or sell the same, required to make application and obtain permit and give bond in same manner as any other user or dealer in nonbeverage alcohol (see T. D. 2559 and T. D. 2576); such pharmacists in order to obtain and use nonbeverage alcohol must under all circumstances qualify by filing bond and obtaining permit regardless of manufacture and sale of the dilutions. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Special tax must be paid as retail or wholesale liquor dealer by homeopathic pharmacist covering sale of nonbeverage alcohol and dilutions. (T. D. 2699; Apr. 16, 1918.)

Homeopathic pharmacists who are unwilling to take out permits and give bonds required may purchase and use beverage alcohol produced from materials fermented prior to 11 o'clock p. m., September 8, 1917, and taxable at the beverage rate. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Such United States Pharmacopoeia or National Formulary preparations as aromatic elixirs, tincture of aromatic, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses: container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6. 1919.)

Distilled spirits.

Permits to use or sell distilled spirits for other than beverage purposes will not be issued to retail liquor dealers, except pharmacists and such other retail dealers as do not sell beverage spirits. (T. D. 2576; Nov. 10, 1917.)

All distilled spirits in possession of manufacturing chemists, pharmacists, or any other person held for sale, although not for sale as distilled spirits on October 4, 1917, are subject to additional floor tax at $1.10 or $2.10 per proof gallon, as case may be; distilled spirits in possession of manufacturers on October 4, 1917, which in legitimate processes of manufacture had been rendered unfit for use as beverages are not subject to additional floor tax. (T. D. 2566; Oct. 27, 1917. Overruled, T. D. 2643; Jan. 28, 1918.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Any licensed pharmacist or druggist may fill physicians' prescriptions (1) if his name appears on the prescription in the physician's handwriting, and (2) if

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Distilled spirits—Continued.

he has made application and received permit, Form 737, in accordance with provisions of T. D. 2788, and (3) if he has qualified as retail liquor dealer by payment of special tax; no such prescription may be refilled. (T. D. 2881; July 3, 1919.)

Druggist filling physicians' prescriptions shall preserve in separate, carefully guarded file one copy of every prescription filled and once a month shall transmit to collector a list showing names of physicians, names of patients, and total quantity dispensed to each patient during the month; whenever physician is prescribing more than normal quantities, or any patient is procuring more than normal quantity, collector shall report facts to Commissioner and the United States attorney. (T. D. 2881; July 3, 1919.)

Pharmacists should refuse to fill prescriptions if they have reason to believe that physicians are dispensing for other than strictly legitimate medicinal uses, or that patient is securing quantities in excess of amount required for legitimate uses. (T. D. 2881; July 3, 1919.)

Wholesale or retail liquor dealers having stocks of wines or liquors on hand may sell to pharmacists holding permit upon receipt of order on Form 739 and in conformity with T. D. 2788 until supplies are exhausted; wholesale or retail dealers who are not licensed druggists or pharmacists will not be permitted to qualify, after their present stocks are exhausted, to deal in either beverage or nonbeverage spirits. (T. D. 2881; July 3, 1919.) Revoked in so far as applicable to wholesale dealers who are not licensed pharmacists or druggists. (T. D. 2959; Jan. 5, 1920.)

Nonbeverage distilled spirits or alcohol tax paid at rate of $2.20 per gallon may be used in filling physicians' prescriptions in accordance herewith whether spirits or alcohol is medicated or denatured so as to render it unfit for beverage use or whether it is not so medicated or denatured; regulations or instructions inconsistent herewith revoked. (T. D. 2934; Oct. 10, 1919.)

Wholesale pharmacists may continue to qualify for sale of liquors or wines for nonbeverage purposes in conformity with T. D. 2788, (T. D. 2881; July 3, 1919.)

Excise taxes.

Preparations made in accordance with formulas contained in United States Pharmacopoeia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Medicinal preparation held out or recommended as proprietary or as a remedy or specific for disease is taxable (a) even if sold, in first instance, only to physicians and druggists, (b) even if a "bacterin," and (c) even if an uncompounded natural substance merely dried or refined. (T. D. 2785; Jan. 23, 1919.)

Narcotics.

See "Narcotics."

Wines.

All wines used by manufacturing chemists or apothecaries in preparations made by them and all compounds and preparations sold by them as wines, however specially designated, are subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Wholesale pharmacists may continue to qualify for sale of liquors or wines for nonbeverage purposes in conformity with T. D. 2788. (T. D. 2881; July 3, 1919.)

PHENACETIN.

Denatured alcohol.

See "Alcohol."

PHILIPPINE ISLANDS.

Estate tax.

Section 200 of the act of September 8, 1916, defines the United States as including continental United States, Alaska, and Hawaii; under this definition, property in the United States of deceased residents of Porto Rico or the Philippine Islands is taxable as the property of nonresidents, though the tax is not imposed in Porto Rico or the Philippine Islands. (T. D. 2378; Art. II.)

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Excise taxes.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its islands or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid, and statement that goods were actually delivered to consignee named in a foreign country or the Philippine Islands or Porto Rico, pursuant to sale by claimant by one of the methods recognized in T. D. 2781, and that affiant has received advice to the effect, may be accepted as satisfactory evidence in support of claim for recovery back of excise taxes paid under Title VI of the act of October 3, 1917, in cases where because of number of shipments and small amount of tax involved in each it is impracticable to furnish copies of invoices covering goods sold, ship's receipts, or copies of through bills of lading. (T. D. 2785; Jan. 23, 1919.)

Taxes imposed by sections, 313, 315, and 600 of the act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from the United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Stamp taxes.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States,, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

Transportation tax.

Transportation of property by water from port of the United States to Porto Rico, Philippine Islands, the Virgin Islands, and the Canal Zone is not subject to transportation tax imposed by section 500 of act of October 3, 1917; rail transportation of property from interior point in United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal revenue taxes by reason of special acts of Congress; such transportation of property destined to the Canal Zone is not exempt. (T. D. 2795; Feb. 26, 1919.)

Wine exportations.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philippine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D. 2387; Oct. 30, 1916.) For regulations, see T. D. 2416, Dec. 12, 1916; T. D. 2505, June 25, 1917.

PHYSICIANS.

Excise tax on boats used by.

Boat used by physician in visiting patients is not used for trade, but for other serious purpose, and is subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

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Income tax—Information at source.

Fees paid to doctors aggregating less than $800 for the year need not be reported. (T. D. 2670; Mar. 11, 1918.)

—— Net income.

In case of professional man who rents property for residential purposes but receives there patients or callers in connection with his professional work (place of business being elsewhere), no part of rent is deductible as business expense. (T. D. 2690; art. 8.)

Narcotics.

Physician who furnished narcotics to an addict in decreasing quantities and claims to be attempting cure of addiction is acting contrary to the act of December 17, 1914, when it is shown that the physician has not personally attended the addict, or has given such addict some personal attention, but not sufficient to show that he acted in good faith. (T. D. 2887; July 12, 1919. Ct. Dec.)

Fact that physician when "in the course of his professional practice only" is excepted from requirement that narcotics shall be dispensed upon official order form does not provide authority for physician to sell narcotics, if he does not do so in good faith, for purpose of securing cure of one suffering from illness or to cure him of the morphine habit; the exception referred to must be construed strictly, and those who set up any such exception must establish it as being within the words, as well as within the reason, thereof. (T. D. 2887; July 12, 1919. Ct. Dec.)

Physician who sells, dispenses, or distributes 500 one-sixth grain tablets of heroin not in the course of his regular professional practice and not for treatment of any disease to person popularly known as a "dope fiend" for purpose of gratifying his appetite for the drug as habitual user thereof, commits indictable offense. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Illegal dispensing of narcotics may be made separate count in indictment as to each addict involved, and evidence may be admitted tending to prove sales by physician to persons other than those mentioned in the indictment. (T. D. 2887; July 12, 1919. Ct. Dec.)

It is proper to permit physicians to testify as experts as to well-recognized methods among medical fraternity of treating persons addicted to narcotics for purpose of curing them of the habit, with view to showing that physician did not dispense narcotics in legitimate manner; evidence from physicians to effect that unless confined an addict is never cured of the habit properly admitted. (T. D. 2887; July 12, 1919. Ct. Dec.)

Physician who sells, gives away, or distributes 500 one-sixth grain tablets of heroin not in pursuance of written order on form issued on blank furnished by Commissioner of Internal Revenue commits indictable offense. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Nonbeverage alcohol.

Every physician or other person desiring to purchase or use homeopathic attenuations, potencies, or dilutions, or nonbeverage alcohol for making same, must qualify by filing bond and obtaining permit except that homeopathic physician or any other person may obtain from pharmacist not exceeding two drachms of any attenuation, etc., at one time without filing bond and obtaining permit; physician may dispense such attenuations, etc., in quantities ordinarily prescribed to patients, and such patients need not file bonds of hold permits. (T. D. 2699; Apr. 16, 1918.)

Homeopathic physicians who are unwilling to take out permits and give bonds required may purchase and use beverage alcohol produced from materials fermented prior to 11 o'clock p. m., September 8, 1917, and taxable at the rate of $3.20 per proof gallon. (T. D. 2699; Apr. 16, 1918.)

Such United States Pharmacopoeia or Natonal Formulary preparations as aromatic elixirs, tincture of aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Prescriptions—Alcohol.

So-called nonbeverage alcohol taxable at rate of $2.20 per proof gallon must not be dispensed under physician's prescription, unless in compounding thereof same is so medicated as to render it absolutely unfit for use as a beverage; in case of pre-

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Prescriptions—Alcohol—Continued.

scription compounding druggist will be held responsible as to sufficiency of medication. (T. D. 2593; Nov. 27, 1917.)

Apothecaries who make sales of alcoholic liquors not compounded in such manner as to render them unfit for beverage purposes, even though under physicians' prescriptions and for purely medicinal purposes, will be held liable to special tax; such persons should, for their own protection, see that prescriptions requiring use of alcoholic liquors also show other ingredients added and rendering compounds unfit for beverage use. (T. D. 2760; Oct. 9, 1918.)

Preparations such as aromatic elixirs, tincture of aromatica, and similar preparations used by physicians and pharmacists principally as vehicles, even though potable, may be sold in good faith for legitmate uses without payment of special tax, provided they are made in conformity with U. S. P. or N. F. (T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

—— Distilled spirits.

Pharmacists who are not qualified as retail liquor dealers may procure nonbeverage spirits on same terms as pharmacists who are holders of special tax stamps as dealers, but must dispense same only on prescription of physician or veterinarian duly authorized to practice under Federal or State laws, and only when denatured in conformity with T. D. 2496; compounding must not be in advance of receipt by pharmacists of prescription; this requirement does not extend to spirits to be used in compounding regular prescriptions for internal use, where spirits are otherwise so medicated as to render them unfit for use as beverages. (T. D. 2559; Oct. 26, 1917. See T. D. 2576; Nov. 10, 1917.)

Pharmacists who hold permit and have given bond permitted to sell nonbeverage alcohol, without physician's prescription, to persons who do not hold permits and who have not given bond, in quantities not exceeding one pint, but not in advance of orders, provided they first medicate same in accordance with any one of specified formulas. (T. D. 2576; Nov. 10, 1917.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Physicians may prescribe wines and liquors for internal use, or liquor for external uses, but in every such case each prescription shall be in duplicate, and both copies be signed in physician's handwriting; quantity prescribed for single patient at given time shall not exceed one quart, and in no case shall physician prescribe alcoholic liquors unless patient is under his constant personal supervision; all prescriptions shall indicate clearly name and address of patient, condition or illness for which prescribed, and name of pharmacist to whom prescription is to be presented for filling. (T. D. 2881; July 3, 1919.)

Pharmacists should refuse to fill prescriptions if they have reason to believe that physicians are dispensing for other than strictly legitimate medicinal uses, or that patient is securing quantities in excess of amount required for legitimate uses. (T. D. 2881; July 3, 1919.)

Physician shall keep record in which separate page or pages shall be allotted each patient for whom alcoholic liquors are prescribed, and shall enter therein, under patient's name and address, date of each prescription, amount and kind of liquors dispensed by each prescription, and name of pharmacist filling same. (T. D. 2881; July 3, 1919.)

Druggist filling physicians' prescriptions shall preserve in separate, carefully guarded file one copy of every prescription filled, and once a month shall transmit to collector a list showing names of physicians, names of patients, and total quantity dispensed to each patient during the month; whenever physician is prescribing more than normal quantities, or any patient is procuring more than normal quantity, collector shall report facts to Commissioner and the United States attorney. (T. D. 2881; July 3, 1919.)

Any licensed pharmacist or druggist may fill physicians' prescriptions (1) if his name appears on the prescription in the physician's handwriting, and (2) if he has made application and received permit, Form 737, in accordance with provisions of T. D. 2788, and (3) if he has qualified as retail liquor dealer by payment of special tax; no such prescription may be refilled. (T. D. 2881; July 3, 1919.)

Wholesale or retail liquor dealers having stocks of wines or liquors on hand may sell to pharmacists holding permit, upon receipt of order on Form 739 and in conformity with T. D. 2788, until supplies are exhausted; wholesale or retail dealers

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Prescriptions—Continued.

—— Distilled spirits—Continued.

who are not licensed druggists or pharmacists will not be permitted to qualify, after their present stocks are exhausted, to deal in either beverage or nonbeverage spirits. (T. D. 2881; July 3, 1919.) Revoked in so far as applicable to wholesale liquor dealers who are not licensed pharmacists or druggists. (T. D. 2959; Jan. 5, 1920.)

Nonbeverage distilled spirits or alcohol tax paid at rate of $2.20 per gallon may be used in filling physicians' prescriptions in accordance herewith, whether spirits or alcohol is medicated or denatured so as to render it unfit for beverage use or whether it is not so medicated or denatured; regulations or instructions inconsistent herewith revoked. (T. D. 2934; Oct. 10, 1919.)

—— Narcotics.

See "Narcotics."

Article 11 of Regulations No. 35, prohibiting refilling of narcotic prescriptions, modified, so that prescriptions calling for morphine, codeine, or heroin, which are written by registered practitioners for patients suffering from Spanish influenza and any pulmonary or bronchial affections, may be refilled, provided that at time of issuance by physicians instructions are noted in body of such prescriptions, "Repeat if necessary," and druggist filling and refilling same shall note thereon each and every date upon which such prescription is refilled. (T. D. 2766; Oct. 22, 1918.)

Order issued by practicing and registered physician for morphine to habitual user thereof, the order not being issued in course of professional treatment in attempted cure of habit, but being issued for purpose of providing user with morphine sufficient to keep him comfortable by maintaining his customary use, is not a physician's prescription within exception (b) of section 2 of the act of December 17, 1914. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

The first sentence of section 2 of the act of December 17, 1914, prohibits retail sales of morphine by druggists to persons who have no physician's prescription, who have no order blank therefor, and who can not obtain an order blank because not of the class to which such blanks are allowed to be issued, and such prohibition is constitutional. (T. D. 2809; Mar. 20, 1919. Ct. Dec.)

Ruling contained in T. D. 2200, of May 11, 1915, permitting practitioner to dispense or perscribe narcotic drugs in a quantity more than is necessary to meet the immediate needs of a patient, revoked, and such revocation declared applicable to all cases whether decreasing dosage is indicated or not. (T. D. 2879; July 2, 1919.)

Theaters—Admission tax.

Doctors for theaters are exempt from tax imposed by section 700 of act of October 3, 1917, when entering theater in course of their employment, but must pay it when attending as mere spectators and occupying seats in the audience. (T. D. 2681; Mar. 26, 1918.)

PIPE LINES.

Fermented malt liquors.

Temporary regulation providing that until further notice brewers having established pipe line for transfer of fermented liquors may set aside and utilize one or more cisterns pertaining thereto for containing liquors containing not to exceed one-half of 1 per cent of alcohol by volume for transfer through the pipe line for sole purpose of bottling, under certain conditions and restrictions; duties of deputy collector in attendance. (T. D. 2359; Sept. 9, 1916.)

Fermented malt liquor may be conveyed by pipe line without tax payment from brewery premises where produced to contiguous industrial distillery of either class established under act of October 3, 1913, there to be used as distilling material, where the brewery premises and the industrial distillery premises are separate and distinct, and for which requisite notices and bonds shall have been given; must be complete separation by substantial unbroken partitions between brewery and distillery from cellar to roof where they are in same building or separate buildings immediately adjoining. (T. D. 2564; Oct. 26, 1917.)

Residue from industrial distilleries containing less than one-half of 1 per cent of alcohol by volume may be transferred to other premises for bottling or otherwise by way of separate pipe line, which may be connected on bottling premises with tank or with the filling machine commonly used for bottling fermented liquors received from brewery premises; such pipes must be open to inspection throughout their entire lengths. (T. D. 2564; Oct. 26, 1917.)

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Oil transportation—Application of act.

Where a person, corporation, partnership, or association, engaged in business, for the account of himself or itself, transports oil by pipe line, and, at times, for hire, furnishes such facility for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier within the meaning of the word as used in Title V of the act of October 3, 1917, and tax imposed by section 501 applies, whether for his or its account or for the account of others; when facility is used exclusively for transporting property of proprietor, and not for hire, proprietor is not a carrier. (T. D. 2676; Mar. 18, 1918.)

—— Computation of tax.

Where proprietor of pipe line, at times, for hire, transports oil of another, basis of computation of tax shall be current lawful rates of carrier and, in absence thereof, current lawful rates of carriers for like service; if basis of tax can not be readily determined in manner stated, facts should be forthwith reported by carrier to Commissioner of Internal Revenue for his determination. (T. D. 2676; Mar. 18, 1918.)

PLACE.

Definition.

The word "place," as used in section 700 of the act of October 3, 1917, is not defined in the section, but the context indicates that in general only admissions to places of amusement and entertainment were intended to be taxable. (T. D. 2681; Mar. 26, 1918.)

PLANTATIONS.

Income taxes—Returns.

See "Farmers."

PLAYING CARDS.

Excise taxes.

The tax imposed by section 609 (f) of the act of October 3, 1917, is 3 per cent of the price for which the sporting goods and games enumerated, except playing cards, are sold by the manufacturer; the game of cribbage is taxable as a whole, although it consists partly of playing cards on which a tax has been paid; card games to be played by adults as well as children, other than ordinary playing cards, are subject to the tax. (T. D. 2719; Art. XVII.)

Inventories and returns.

Manufacturers and importers of playing cards required to render sworn inventory, in duplicate, on or before October 31, 1917, showing number of packs of cards and number of stamps; on October 31, 1917, or ten days thereafter, return covering period October 4 to 31 required, which return must be rendered for each subsequent month on last day thereof, or on or before 10th day of succeeding month, until supply of stamps at old rate is exhausted; verification of inventories and returns. (T. D. 2538; Oct. 10, 1917.)

Stamp taxes.

Additional tax imposed by Title VIII, Schedule A, act of October 3, 1917, does not apply to cards manufactured and removed tax paid prior to October 4, in hands of jobbers and retail dealers, unless packs to which stamps are affixed have been broken and cards repacked in new cases, in which event dealers so packing same would be liable to tax as in case of original manufacturer under provisions of T. D. 1100. (T. D. 2538; Oct. 10, 1917. T. D. 2543; Oct. 19, 1917.)

Additional tax upon playing cards, imposed under subdivision 13 of Schedule A, act of October 3, 1917, became effective on and after October 4, 1917, but this additional tax attaches only to playing cards manufactured or imported and sold or removed for sale on and after that date, and is to be paid by the manufacturers or importers; such tax does not apply to tax-paid stocks in hands of wholesale or retail dealers, who may sell all cards tax paid at 2 cents under act of August 28, 1894, which they had on hand on October 4, 1917, without incurring liability to additional tax. (T. D. 2543; Oct. 19, 1917.)

PLEASURE CLUBS.

See "Social Clubs."

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PLEDGES.

See "Collateral Security."

POLITICAL SUBDIVISIONS.

Definition.

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of those functions of State which by long usage and inherent necessities of government have always been regarded as public; the term includes special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

POOL TABLES AND BALLS.

Admissions, tax on.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as pool tables, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

Excise taxes.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which pool balls and tables are sold by the manufacturer. (T. D. 2719; Art. XVII.)

Occupational taxes.

Pool tables are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of pool tables in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

Special taxes—Post exchanges.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys operated by them. (T. D. 2439; Jan. 27, 1917.)

PORTO RICO.

Collections of internal revenue—Accounting.

Instructions relative to accounting for collections from sales of stamps to be affixed to articles subject to internal-revenue tax received from Porto Rico, as per notice on internal-revenue Form 471. (T. D. 2482; Apr. 12, 1917.)

Denatured alcohol—Imports.

Where alcohol of not less than 180° proof is brought from Porto Rico for denaturation, same may be transferred to any central denaturing bonded warehouse free of tax upon filing stated bond, which is to be given in duplicate by warehouse proprietor, with sureties satisfactory to collector and in penal sum of not less than triple the amount of tax and in no case less than $5,000, one copy of bond to be retained by collector and one copy, with his approval indorsed thereon, to be forwarded to Commissioner of Internal Revenue; instructions as to application for transfer of alcohol; alcohol transferred will, upon arrival, be carefully inspected and reported on monthly statement (Form 575); such alcohol will be denatured and accounted for in same manner as other alcohol received for like purpose. (T. D. 2575; Nov. 5, 1917.) This decision applies to alcohol produced in Porto Rico on or after October 4, 1917, only; decision further modified so as to permit giving of bond in penal sum of not less than actual amount of tax at rate of $2.20 per proof gallon, and in no case less than $5,000, except that in case of alcohol withdrawn by scientific or educational institution under section 3297, Revised Statutes, bond shall be for penal sum of not less than double amount of tax at rate of $2.20 per gallon. (T. D. 2641; Jan. 28, 1918.)

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Estate tax.

Section 200 of the act of September 8, 1916, defines the United States as including continental United States, Alaska, and Hawaii; under this definition, property in the United States of deceased residents of Porto Rico or the Philippine Islands is taxable as the property of nonresidents, though the tax is not imposed in Porto Rico or the Philippine Islands. (T. D. 2378; Art. II.)

Excise taxes.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its islands or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid, and statement that goods were actually delivered to consignee named in a foreign country or the Philippine Islands or Porto Rico, pursuant to sale by claimant by one of the methods recognized in T. D. 2781, and that affiant has received advice to the effect, may be accepted as satisfactory evidence in support of claim for recovery back of excise taxes paid under Title VI of the act of October 3, 1917, in cases where because of number of shipments and small amount of tax involved in each it is impracticable to furnish copies of invoices covering goods sold, ship's receipts, or copies of through bills of lading. (T. D. 2785; Jan. 23, 1919.)

Taxes imposed by sections 313, 315, and 600 of the act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Stamp taxes.

Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska) and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

Transportation tax.

Transportation of property by water from port of the United States to Porto Rico, Philippine Islands, the Virgin Islands, and the Canal Zone is not subject to transportation tax imposed by section 500 of act of October 3, 1917; rail transportation of property from interior point in United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal revenue taxes by reason of special acts of Congress; such transportation of property destined to the Canal Zone is not exempt. (T. D. 2795; Feb. 26, 1919.)

Wines—Exports.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philippine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D. 2387; Oct. 30, 1916.) For regulations, see T. D. 2416, Dec. 12, 1916; T. D. 2505, June 25, 1917.

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POST EXCHANGES.

Billiard tables, etc.—Special tax.

Where post exchanges are under complete control of the Secretary of the Navy as governmental agencies they are not liable to special tax on account of billiard or pool tables or bowling alleys operated by them. (T. D. 2439; Jan. 27, 1917.)

Cigars, tobacco, etc.—Floor taxes.

Stocks of cigars, tobacco, and cigarettes held for sale at close of business October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

POST OFFICE.

Estate tax—Mailing notice of excessive payment.

"Time of notification," within section 207 of the estate-tax law, Title II, act of September 8, 1916, is the date on which notice of the amount of such "excess part of the tax" is received by the executor, whether such notice is given by mail or otherwise. (T. D. 2770; Nov. 6, 1918.)

Income taxes—Mailing returns.

If return is made and placed in the United States mail, properly addressed, and postage paid in ample time, in due course of mail, to reach office of collector or deputy collector, on or before last due date, no penalty will attach should return not be actually received by such officer until subsequent to that date. (T. D. 2690; art. 52.)

When last due date for filing return falls on Sunday or a legal holiday, the last due date will be held to be day following such Sunday or legal holiday, and return should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office under ordinary handling of the mails, on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

Where return is made and placed in United States mails in due course, properly addressed, and postage paid, in ample time to reach office of collector or deputy collector on or before such due date, no penalty attaches should return not be actually received until subsequent to that date; where question is raised as to whether or not return was posted in ample time, envelope in which return was transmitted should be preserved by collector and forwarded to Commissioner of Internal Revenue with the return. (T. D. 2690; art. 220.)

Parcel post—Stamp taxes.

Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

POULTRY FARMS.

Income-tax returns.

See "Farmers."

POWER OF APPOINTMENT.

Estate tax.

Where decedent exercises general power of appointment as donee under will of prior decedent, property so passing is portion of gross estate of decedent appointor; when property is transferred by special or limited power of appointment, question of taxability will depend upon terms of instrument by which donee of power acts, and facts in any such case should be reported fully to Commissioner. (T. D. 2477; Apr. 7, 1917.)

Property passing under general power of appointment, where the construction and effect of the power and the rights of the parties thereunder are governed by the laws of Pennsylvania, should not be included in the gross estate of the decedent exercising the power in a case arising under Title II of the revenue act of 1916. (T. D. 3088; Oct. 30, 1920. Ct. Dec.)

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POWER OF ATTORNEY.

Income taxes—Returns.

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority conferred by power of attorney, is not a fiduciary within the income tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney liability under the law rests with the principal. (T. D. 2690; art. 29.)

Copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear impress of the seal. (T. D. 2690; art. 226.)

Stamp tax.

No stamp tax is imposed upon power of attorney in transfer by assignment, absolute or as collateral security, of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in assignee. (T. D. 2599; Dec. 3, 1917.)

PRECIOUS METALS AND STONES.

Excise taxes.

Jewelry includes ornaments made of gold, silver, or platinum, or any imitation thereof, and precious or semi-precious stones, or imitations thereof, used for personal adornment; rulings as to vanity boxes, cigarette cases, lorgnettes, buckles, and other articles as constituting jewelry when intended to be carried on the person and made wholly or in part from gold, silver, or platinum, or having appearance thereof. (T. D. 2719; Arts. XIII, XIV.)

Watches not used solely for utility purposes are taxable under section 600 (e) of the act of October 3, 1917; a watch, irrespective of how it is to be worn, is taxable as jewelry if its case or any attachment sold with it is ornamented with precious or semi-precious stones or with any ornamentation other than engraving or engine turning; a watch, whether or not otherwise taxable, is subject to tax if sold with a metal bracelet; a wrist watch is not subject to tax when sold with a leather band, webbing, or silk ribbon, if neither the watch nor such attachment is ornamented with precious or semi-precious stone or otherwise than by engraving or engine turning. (T. D. 2719; Art. XV.)

Parts of jewelry, including mountings, unset stones, and pearls temporarily strung, are not taxed when sold for further manufacturine and resale, but are when sold to a customer for personal use; where manufacturer mounts diamonds belonging to a jeweler, latter is liable to tax on entire article as producer, but where jeweler provides mounting for private customer's stone, he should pay tax on price of mounting. (T.D. 2719; Art. XVI.)

PREMIUMS.

Insurance.

See "Insurance."

PREPARED SIRUP.

Definition.

A "prepared sirup" within the meaning of section 313 (a) of the act of October 3, 1917, is a simple sirup with flavoring amd perhaps other materials. (T. D. 2719; Art. XXIX.)

PRESCRIPTIONS.

See "Physicians."

PRESIDENT OF UNITED STATES.

Income taxes.

Compensation of President of United States for term for which he is elected, beginning March 4, 1917, shall not be included as income for purposes of income tax under act of October 3, 1917 (such compensation being subject to tax under the act of September 8, 1916). (T. D. 2690; art. 5; see T. D. 3037.)

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PREWAR PERIOD.

Definition.

The term "prewar period," as used in war excess profits tax regulations, means the calendar years 1911, 1912, and 1913, or if a corporation or partnership was not in existence or an individual was not engaged in the trade or business during the whole of such three years, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 6.)

PRINCIPAL AND AGENT.

See "Brokers"; "Exchanges."

Admissions tax—Collection.

Corporation conducting dance hall is agent of Government to collect tax on admissions, and when T. D. 2590 was complied with it is not liable for failure to collect the tax until such time as it had actual or constructive notice of the modification of T. D. 2590 by issuance of Regulations No. 43. (T. D. 2782; Dec. 24, 1918.)

Capital stock tax—Returns.

Returns must be signed by agent or attorney or other principal officer in charge of United States branch of foreign corporation. (T. D. 2750, Appendix B; Aug. 9, 1918.)

Returns must be signed and verified by agent or attorney or other principal officer in charge of United States branch of foreign corporation and must be sworn to before an officer authorized to administer oaths, and seal of attesting officer, if he is required to have a seal, must be impressed on return in space provided for that purpose. (T. D. 2750, Appendix B; Aug. 9, 1918.)

Carriers' agents.

All taxes imposed by section 500 of the act of October 3, 1917, shall, as and when the charges are collected, be paid to and collected by the officers, agents, or other employees of the carrier who collect such charges. (T. D. 2676; Mar. 18, 1918.)

Whenever one carrier collects charges for freight transportation performed in part by or on behalf of another carrier or carriers, such carrier shall collect tax applicable to such taxable charge or charges and return and remit to proper collector of internal revenue the total tax collected; whenever a charge, in connection with a terminal or water service, is paid by one carrier, acting for the consignor or consignee, to another carrier, tax applicable shall be paid by former carrier to latter carrier, who shall return and remit the same. (T. D. 2676; Mar. 18, 1918.)

Officers, agents, and other employees of carriers, shall cause to be assembled for each calendar month, at general offices of carriers, summaries showing aggregate taxes collected as well as summaries of all tax adjustments; such summaries shall show aggregate taxes of each class collected, as called for by Form 727, and total amount deducted for adjustments on account of overcharges as called for by such Form, and difference between the two items shall be amount to be reported to collector. (T. D. 2676; Mar. 18, 1918.)

Agents of carriers authorized, in adjusting overcharges and undercharges, to adjust taxes accordingly; adjustment of tax where, after collection of charge and tax, it is claimed that charge is entitled to exemption, not authorized; all adjustments must be recorded and reported and must be supported by such evidences as will substantiate correctness thereof, which evidences must be kept in respective offices through which adjustments are made. (T. D. 2676; Mar. 18, 1918.)

Estate tax—Duties of corporation transfer agents.

Transfer agents of corporate stock or bonds, receiving into possession for transfer purposes such personality of nonresident decedent, may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Where transfer of stock or bonds or payment of dividends or interest theretofore legal property of decedent, whether resident or nonresident, is made to or upon order

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Estate tax—Duties of corporation transfer agents—Continued.

of an executor or administrator, acting under letters granted in the United States, Hawaii, or Alaska, the corporate agent or officer will not be required to file the 30-day notice, make return, or pay tax. (T. D. 2490; May 14, 1917.)

The 30-day notice must be filed when the corporation, its transfer agent, register, or paying agent is called upon to make transfer of stock or bonds, or to pay interest or dividends to any person succeeding in right thereto a stockholder or bondholder who, since September 8, 1916, has died domiciled outside the United States, Hawaii, Alaska, unless such successor in interest is an executor or administrator of the decedent, acting under letters granted within the United States, Hawaii, or Alaska. (T. D. 2490; May 14, 1917.)

The 30-day notice will show the name and address at time of the nonresident decedent, and description and valuation of the property to be transferred or paid, and the name, designation, and address of the person to whom transfer or payment is made, and will be signed by the proper officer or agent of the corporation. (T. D. 2490; May 14, 1917.)

The 30-day notice must be filed for dividends declared prior to the day of death and for interest payable after death to the extent of the portion accrued to the day of death, and if notice be filed either within 30 days from death or immediately upon receipt of order for transfer or payment, transfer or payment need not be postponed; if tax is not paid within legal period proceedings will be instituted under section 208 of the act of September 8, 1916, for the sale of the property and the payment of the tax. (T. D. 2490; May 14, 1917.)

Transfer agents who have orders for transfer of stock, standing in name of nonresident decedent may, instead of following procedure prescribed in T. D. 2490, forward Form 706 to its foreign office or to its representative in foreign countries, with instructions that foreign executor, administrator, or beneficiary of estate shall execute complete return on such Form 706 of all property belonging to decedent, situate in United States, including shares of stock in domestic corporation; such return to be subscribed and sworn to; personal representative must forward inventory filed in foreign country, and transfer agent will check return against inventory and send return to Commissioner of Internal Revenue with certificate that property disclosed by inventory to be situated in United States has been included in return; two copies of return will be forwarded to collector who will make assessment, and upon payment will send certified and receipted copy of return to transfer agent; notice on Form 704 and Form 714 must be filed with collector as heretofore. (T. D. 2708; Apr. 25, 1918.)

—— Release of property by local agent.

Local agent, representative, etc., may not release to foreign administrator or executor or foreign beneficiary, property within this country at time of decedent's death until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made for satisfaction of tax lien; foreign administrator or executor will not be recognized as relieving others in charge of decedent's property from responsibility for satisfying requirements of act unless and until he has made return and tendered payment of tax due; application of ruling to other custodians of property in this country. (T. D. 2454; Feb. 28, 1917.)

Excess profits tax.

Agents and brokers requiring and using no capital or merely a nominal capital in their business are taxable under article 15 of Regulations No. 41, but commission houses regularly employing substantial amount of capital, whether to lend to principals or to carry goods on their own account, are not deemed to be agents or brokers and are taxable under provisions of article 16. (T. D. 2694; art. 73.)

Excise taxes—Commissions.

Commissions to agents and other expenses of sale are not deductible from price in computing same for purpose of tax imposed by section 600 of the act of October 3, 1917. (T. D. 2719; Art. III.)

—— Manufacturing agent.

A person who is employed to make an article and receives for it the cost of materials and labor plus specified profit shall be considered a manufacturing agent, and the person who procures the preparation of the article will be considered the manufacturer. (T. D. 2719; Art. XXI.)

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Excise taxes—Continued.

—— Sales by agents.

Where agent of manufacturer makes a sale, it is to be treated as a sale of the manufacturer; if the manufacturer nominally sells an article to a sales agent or sales agency, but retains interest in profits from resale, taxable sale is that made by sales agent or agency, rather than nominal sale by manufacturer to agent or agency. (T. D. 2909; Aug. 11, 1919. Art. V of Regulations 44 amended.)

Where so-called sales agent or distributor is separate corporation, and sale to it is absolute, and at prices such as ordinarily obtain between persons dealing at arm's length, with no further payment or benefit accruing to manufacturer upon resale or otherwise except receipt of dividends on stock holdings, taxable sale is that made by manufacturer to such sales corporation, even though all or substantially all of the stock of such sales corporation is held by or for benefit of manufacturer. (Id.)

Where, however, there exist facts and circumstances which tend to establish relationship of principal and agent between manufacturer and sales corporation, taxable sale is that made by sales corporation. (Id.)

Mere ownership of majority or all of stock of sales corporation by manufacturer, without more, is not sufficient to establish relationship of principal and agent; same rule applies in case of selling corporation which owns substantially all of the stock of the manufacturing corporation. (Id.)

Fiduciaries distinguished from agent.

There may be a fiduciary relationship between an agent and a principal, but the word "agent" does not denote a "fiduciary" within the meaning of the income-tax law. (T. D. 2690; art. 29.)

Income taxes—Claims.

Claims for refund of assessed tax and penalties must be made out upon Form 46 and all facts relied upon in support of claim should be clearly set forth under oath, claim to be supported by affidavit of deputy collector of proper division and by certificate of collector showing certain specified matters; affidavit may be made by agent of party assessed, but in such case power of attorney must accompany claim. (T. D. 2690; arts. 265, 266.)

—— Commissions of insurance agents.

Commissions on renewal premium for insurance received by agents on account of business written is income to be accounted for as such and for calendar year of its receipt. (T. D. 2690; art. 4.)

—— Exemptions.

Farmers', fruit growers', or like association, organized and operated as a sales agent to market products of its members, in order to come within the exemption provided in paragraph eleventh of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that for their own account they have no net income and that entire proceeds of marketing products of their members less necessary expenses are turned back or paid to members on basis of quantity of produce furnished by them, quality and grade being considered, as purchase price of such produce. (T. D. 2690; art. 75.)

If in course of their business farmers', fruit growers', or like association, organized and operated as sales agent to market products of its members, purchase for cash at a stipulated price articles of produce with view to selling them for gain, they will be required to make returns of annual net income and include therein for purpose of tax all income derived from such transaction. (T. D. 2690; art. 75.)

—— Information at source.

Wherever a foreign country or foreign corporation issuing bonds has appointed a paying agent in this country, charged with duty of paying interest upon such bonds, such agent shall be source of information; if such country or corporation has no such agent, then last bank or collecting agent in this country shall be source of information; in case of dividends on stock of foreign corporation, first bank or collecting agent accepting such item for collection shall be source of information. (T. D. 2759; Oct. 2, 1918.)

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Income taxes—Continued.

—— Licenses.

All persons, corporations, etc., undertaking, as matter of business or for profit, collection of foreign payments of interest on dividends by means of coupons, checks, or bills of exchange, shall obtain license from Commissioner of Internal Revenue, as prescribed by section 9 (b) of the act of September 8, 1916, as amended; such licensee shall write or stamp on the face of the item: "Information obtained and furnished by ——— (name of collecting agent)." (T. D. 2690; art. 48.)

Banks or agents collecting foreign items required to obtain license from Commissioner of Internal Revenue to engage in such business and are subject to such regulations for furnishing of information as the Commissioner, with approval of Secretary of the Treasury, shall prescribe, and to penalties prescribed by failure to obtain such license. (T. D. 2759; Oct. 2, 1918.)

—— Net income.

Car-trust certificates secured by equipment are obligations of railroad company, similar to corporate bonds, etc., and trustees in whose names legal title to equipment stands are not an association within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and are therefore not taxable, but they are, for purposes of such title, a fiscal agent paying off the obligations, both principal and interest, of railroad companies with funds appropriated by such companies; companies may mortgage such certificates in amount of bonded or other indebtedness reported under item 2 of return, Form 1031, and interest paid thereon with interest on other obligations will be deductible; if certificates contain provision by which obligor agrees to pay portion of tax imposed upon obligee, or reimburse obligee for any portion of tax, or pay interest without deduction for any tax, trustees, in making interest payments will, in absence of claims for exemption, where interest payments are made to individuals, withhold normal income tax on such payments regardless of amount thereof. (T. D. 2690; art. 188.)

Losses of insurance companies other than mutual, but including mutual life and mutual marine, for agency balances, or other amounts charged off as worthless, and losses by defalcation, premium notes voided by lapse, provided such notes have at some time been included in gross income for income-tax purposes, may be deducted. (T. D. 2690; art. 240.)

—— Premiums paid insurance agents.

Premiums paid to agents of insurance company but not remitted to company during year are received by the company and should be returned as part of its gross income for year in which paid to its agents. (T. D. 3013; May 3, 1920. Ct. Dec.)

—— Returns.

Return may be made by an agent when, by reason of illness, absence, or nonresidence, person liable for return is unable to make same, agent assuming responsibility of making return and incurring penalties provided for intentional false or fraudulent return. (T. D. 2690; art. 22.)

Fiduciary relationship for purposes of income tax can not be created by power of attorney; agent with authority to effect leases with tenants entirely on his own responsibility, paying all charges in connection with property out of rent funds, merely turning over net profits to principal by virtue of authority conferred by power of attorney, is not a fiduciary within the income tax law; in all cases where no legal trust has been created in the estate controlled by the agent and attorney liability under the law rests with the principal. (T. D. 2690; art. 29.)

Agent of nonresident alien is responsible for correct return of all income accruing to his principal within purview of the agency, and agent will be responsible for complete return; agency appointment will determine how completely the agent is substituted for the principal for income-tax purposes. (T. D. 2690; art. 32.)

—— Subsidiary companies.

Where corporation is owner of all stock in subsidiary company and the lessee of all its property, regularly maintaining possession, control and management of all the subsidiary's money and other property, so that the subsidiary is a mere agent of the other corporation and is practically merged therewith, dividends of the subsidiary declared out of a surplus which accrued prior to March 1, 1913, are not taxable income of the parent corporation. (T. D. 2730; June 11, 1918. Ct. Dec.)

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Income taxes—Continued.

—— Withholding.

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals or foreign corporations, having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

Collecting agents, responsible banks and bankers receiving coupons for collection with ownership certificates attached may present coupons with original certificates to debtor corporation or withholding agent for collection, or original certificates may be detached and forwarded direct to Commissioner of Internal Revenue, providing such agent shall substitute for such certificate its own certificate and shall keep complete record of each transaction showing specified data; identification of substitute certificate; substitute certificates discontinued with respect to ownership certificates presented with coupons for collection by nonresident alien individuals, corporations, etc. (T. D. 2690; art. 43.)

Any income withheld from citizen or resident alien in 1917 prior to October 3, 1917, except in case covered by section 9 (c) of the act of September 8, 1916, as amended, shall be released by withholding agent and paid over to individual from whom it was withheld or his proper legal representative; income upon which such tax was so deducted and released required to be included in return, if any, of such individual for the purpose of assessment and collection of income tax. (T. D. 2690; art. 47.)

When stock in domestic or resident alien-corporation whose net income is subject to normal income tax is issued in name of another than nonresident alien corporation, dividends on such stock will not be subject to withholding of normal tax under section 13 (f) of the act of September 8, 1916, as amended, except when debtor corporation or its withholding agent has knowledge that actual owner of stock is nonresident alien corporation subject to withholding. (T. D. 2690; art. 201.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax-free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificate Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed, or accompanied by proper ownership certificate, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of

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Income taxes—Continued.

—— **Withholding**—Continued.

month following that during which items were accepted, accompanied by letter of transmittal showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate Form 1000 is used paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

Revenue agents—Leave of absence.

Applications for leave of absence required to be in writing, or by telegraph or telephone if emergency requires, and to be reported by revenue agent under whom agent or inspector is assigned to duty; leave of absence is subject to approval of Commissioner of Internal Revenue; telegraph or telephone charges incident to procuring leave are at expense of officer desiring such leave; manner of reckoning leave of absence and extent thereof. (T. D. 2369; Sept. 12, 1916.)

—— **Reports.**

Use by revenue agents of Form 629 discontinued; Form 132 should contain statement of duties performed. (T. D. 2398; Nov. 18, 1916.)

Special disbursing agents will discontinue reporting on Form 7300 the expenses incurred in each State for miscellaneous items and services of special employees, guides, posse men, and informers. (T. D. 2398; Nov. 18, 1916.)

Shippers—Claim for refund of transportation tax.

Where shipper, claiming refund of transportation tax collected on property in process of exportation, is member of association of similar shippers, such association may, as agent for first shippers, make blanket claim on Form 46 in behalf of individual members; formal demand of each shipper must be attached to and forwarded with Form 46 for refund of amount to shipper, such demand showing total amount of charges and total amount of tax paid by each shipper, and such demands must be aggregated by association and securely attached to claim before same is filed with commissioner. (T. D. 2727; June 5, 1918.)

PRINCIPAL AND SURETY.

Indemnity or surety bonds.

See "Bonds."

PRIVATE HOME.

Definition.

The words "private home," as used in act of September 8, 1916, were intended to be taken in their common and ordinary meaning as describing individual or family residences; it has accordingly been held that occupation tax is applicable to pool or billiard tables and bowling alleys in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

PRIVATE RAILROADS.

Excess profits tax—Consolidated returns.

Where a railroad is owned by an industrial corporation, and is operated as a plant facility, or as an integral part of a group organization of affilated corporations, and such affiliated corporations are required to file consolidated return, the return of such railroad shall be included therein. (T. D. 2662; Mar. 6, 1918.)

Transporting for hire.

Where a person, corporation, partnership, or association is engaged in logging, manufacturing, mining, or any other business, and, for account of himself or itself furnishes any of the services or facilities described or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and, at times, for hire, furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

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PROBABLE CAUSE.

Income taxes—Claims.

In view of provisions of section 989, Revised Statutes, protecting collector from person liability in case court certifies that there was probable cause for act done by him, it is for interest of collector to see that in all cases wherein judgment is rendered against him, court shall be asked to give certificate of probable cause; if judgment debtor shall have already paid amount recovered against him, claim should be made in his name and affidavit should state exact amount paid by him; there should also be certificate of clerk of court in which judgment was recovered (or other satisfactory evidence) showing that judgment has been satisfied and specifying exact sum paid in as satisfaction, with detail of all items of cost paid, or for which judgment debtor is liable. (T. D. 2690; art. 275.)

PROCEEDS.

Definition.

The word "proceeds," as used in section 700 of act of October 3, 1917, means gross receipts less payments of proper expenses, or, in other words, net proceeds. (T. D. 2547; Oct. 22, 1917.)

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

PRODUCE EXCHANGES.

Definition.

The word "exchange" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes each and every agent or agency, auction place, or other meeting place, at which produce or other merchandise for future delivery is publicly bought, sold, bid for, offered or exchanged, or contracts for such future delivery are made, and includes all associations or individuals, partnerships, and corporations engaged in business of publicly selling, buying, or exchanging products of merchandise for future delivery. (T. D. 2608; Nov. 30, 1917.)

Documentary stamps.

Instructions as to use of regular documentary stamps pending preparation and distribution of special supply of overprinted stamps, provided to temporarily take place of distinctive colored stamps; requisition; issuance and exchange. (T. D. 2594; Nov. 28, 1917.)

Sales for future delivery—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and canceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contract of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Exempt transactions.

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing-house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

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Sales for future delivery—Continued.

—— **Memoranda of sales.**

Every sale or agreement not evidenced by memorandum or contract expressly requiring immediate or prompt delivery shall be deemed to be for future delivery; every person making sale of any product, etc., at, on or in any exchange for future delivery shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses, acting as agents, required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; requisitions for stamps; records; kind and color of stamps. (T. D. 2608; Nov. 30, 1917.)

PRODUCER.

Definition.

The term "producer," as used in Regulations No. 44, relating to war excise taxes, is a broader term than "manufacturer," which is defined as a person who prepares an article in final marketable form and sells or markets it; a retailer may be also a producer. (T. D. 2719; Art. II.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation or as a remedy or specific. (T. D. 2719; Art. XXI.)

PROFESSIONS.

Excess profits tax.

Section 209 of the act of October 3, 1917, applies primarily to occupations, professions, trades, and businesses engaged principally in rendering personal service in which employment of capital is not necessary, and earnings of which are to be ascribed primarily to activities of owners; in determining whether trade or business is taxable under article 15 of Regulations No. 41 no weight will be given to fact that it is carried on by means of personal service unless principal owners are regularly engaged in active conduct of the trade or business. (T. D. 2694; art. 71.)

Business concerns which render professional personal service and are of the class normally taxable under article 15 of Regulations No. 41, shall not be taken out of that class merely because of size of capital if employment of such capital is necessitated by delay and irregularity in receipt of fees, etc., or if such capital is wholly or

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Excess profits tax—Continued.

mainly used as fund from which to advance salaries, wages, etc., or to provide office furniture, accommodations, and equipment, nor because of form of organization, whether corporation or partnership, nor in case of partnership, because of number of partners. (T. D. 2694; art. 72.)

Income taxes.

In case of professional man who rents property for residential purposes but receives there clients, patients, or callers in connection with his professional work (place of business being elsewhere), no part of rent is deductible as business expense. (T. D. 2690; art. 8.)

PROMISSORY NOTES.

Excess profits tax—"Tangible property."

Stocks, bonds, bills and accounts receivable, notes and other evidences of indebtedness, and leaseholds, when paid in for stock or shares in corporation or partnership, will be regarded as tangible property so paid in, but when corporation pays for intangible property by the issuance of its own stock or bonds, this will not be regarded as being a payment bona fide made in cash or tangilbe property within meaning of section 207. (T. D. 2694; art. 47.)

Income taxes.

Gross income from sources within United States, as applied to foreign corporations, includes interest received on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise. (T. D. 2690; art. 89.)

Losses of insurance companies other than mutuals, but including mutual life and mutual marine, for agency balances or other amounts charged off as worthless, and losses by defalcation, premium notes voided by lapse, provided such notes have at same time been included in gross income for income-tax purposes, may be deducted. (T. D. 2690; art. 240.)

Stamp taxes.

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

Short-term instrument, although issued by corporation under trust indenture, may be regarded as a note if every instrument of such issue both (*a*) is payable to bearer and incapable of registration, and (*b*) lacks interest coupons and so requires presentation upon each payment of interest. (T. D. 2713; May 14, 1918.)

Instrument not under seal containing simple promise to pay sum of money at specified time, such as is common in every-day commercial use, is promissory note within meaning of Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

Failure to stamp promissory notes, which are subject to stamp tax under subdivision 6 of Schedule A, Title VIII, act of October 3, 1917, renders maker and acceptor of such notes separately liable under section 802 (a) of the act. (T. D. 2795; Feb. 26, 1919.)

—— Policy loan and premium extension agreements.

Policy loan and premium extension agreements are not promissory notes as contemplated by law so as to be liable for stamp tax. (T. D. 2599; Dec. 3, 1917.)

PROPAGANDA.

Income taxes—Deduction of expenses.

Sums of money expended for lobbying purposes, promotion or defeat of legislation, and exploitation of propaganda, are not an ordinary and necessary expense in operation and maintenance of business, and are therefore not deductible. (T. D. 2690; art. 143.)

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PROPRIETARY MEDICINES.

See "Medicinal Preparations."

Alcohol—Floor tax.

Alcohol held on October 3, 1917, by manufacturers of proprietary medicines for use in manufacture of medicines is subject to floor tax, unless on day act of October 3, 1917, took effect it was in process of manufacture and had been rendered unfit for beverage purposes. (T. D. 2547; Oct. 22, 1917. Overruled, T. D. 2643; Jan. 28, 1918.)

Distilled spirits.

Cauffman's ginger brandy held to be alcoholic compound beverage for which special tax is required for manufacturing and selling; not taxed as a proprietary medicine though label shows medicinal claims. (T. D. 2536; Oct. 13, 1917.)

Application for permit to use distilled spirits in the manufacture of proprietary medicines must be accompanied by copy of manufacturer's formula and a sample of his product, which must be forwarded to office of Commissioner of Internal Revenue for approval, unless formula and sample have been passed upon favorably by the Commissioner. (T. D. 2559; Oct. 26, 1917.)

Use of distilled spirits for nonbeverage purposes includes proprietary medicines for which special tax is not required as rectifier from the producer, or special tax as wholesale or retail liquor dealer from the vendor; manufacturers of so-called proprietary medicines listed in T. D. 2222, or subsequent decisions of similar import (see T. D. 2554), will not be entitled to use nonbeverage alcohol. (T. D. 2559; Oct. 26, 1917. T. D. 2788, Feb. 6, 1919.)

Excise taxes—Articles included.

The word "medicinal" is applicable to any substance adapted to cure or alleviate disease or pain; accordingly, a medicinal preparation is a preparation of any substance whatever intended to be applied for the cure or mitigation of pain or disease; many articles or substances which are not usually considered as belonging to materia medica may become taxable medicinal preparations by being held out or advertised as remedies for diseases affecting the human or animal body. (T. D. 2719; Art. XXII.)

—— Boric acid.

Boric acid when sold under a trade-mark as a medicinal preparation is taxable under section 600 (h) of act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— Food preparations.

Food preparations as distinguished from medicinal preparations are not taxable under section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— "Held out or recommended."

"Held out or recommended," as used in sections 600 (h) of the act of October 3, 1917, includes representation by any means, personal canvass and statements on the labels, in pamphlets, or advertisements, or otherwise; a holding out or recommendation for physicians only is a holding out to the public. (T. D. 2719; Art. XXI.)

—— Licorice.

Licorice put up in sticks, lozenges, or in other forms suitable for medicinal purposes and sold under a trade-mark is subject to the tax imposed by section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXII.)

—— Manner in which prepared.

Tax applies to medicinal preparation held out by producer to the public as a proprietary medicine or as a remedy for disease, although it is prepared by a process which merely refines a natural substance. (T. D. 2719; Art. XXII.)

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

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Excise taxes—Continued.

—— **Manufacturer.**

If article or its container has on it both a trade-mark or trade name of one manufacturer and the individual or business name of another, the owner of the trade-mark or trade name will be deemed the manufacturer; if the article or its container has on it both the commercial name of the article and an individual or business name, the latter will be deemed to designate the manufacturer. (T. D. 2719; Art. XXI.)

A person who is employed to make an article and receives for it the cost of materials and labor plus specified profit shall be considered a manufacturing agent, and the person who procures the preparation of the article will be considered the manufacturer. (T. D. 2719; Art. XXI.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation or as a remedy or specific. (T. D. 2719; Art. XXI.)

A person who bottles or otherwise prepares an article, and merely for advertising purposes places on such article the name of any dealer who may handle it, shall be deemed manufacturer if names of both persons appear, but if only the dealer's name appears he shall be deemed the manufacturer. (T. D. 2719; Art. XXI.)

Where the owner of a formula contracts with a manufacturer to prepare an article according to such formula and to deliver it to him in complete, salable form, the labels bearing the formula owner's name, he is considered the manufacturer. (T. D. 2719; Art. XXI.)

—— **Printing on labels, etc.**

Printing on labels the directions and indications for use, dosage, and other similar matter will not alone render preparations made under a standard formula taxable, provided preparation is not held out or recommended as a proprietary preparation or as a remedy or specific; where medicinal preparations are sold under labels which do not indicate that the formula is published, they will be considered to be prepared under private formulas, unless proof is submitted that the formula is not secret. (T. D. 2719; Art. XXII.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, amounts to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label does not amount to a holding out of that preparation as proprietary. (T. D. 2785; Jan. 23, 1919.)

—— **Rate of tax.**

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer; provided that (1) the manufacturer claims to have any private formula, secret or occult art for making or preparing them; or (2) the manufacturer has or claims to have any exclusive right or title to making or preparing them or (3) they are prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark; or (4) they are held out or recommended to the public by the makers, venders, or proprietors thereof, either (*a*) as proprietary medicines or medicinal proprietary articles or preparations, or (*b*) as remedies or specifics for any disease or affection whatever affecting the human or animal body. (T. D. 2719; Art. XIX.)

—— **Scope of tax.**

Every medicinal preparation, compound, or composition embraced within one or more of the subdivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary

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Excise tax—Continued.

—— **Scope of tax**—Continued.

article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Medicinal preparation held out or recommended as proprietary or as a remedy or specific for disease is taxable, (a) even if sold, in first instance, only to physicians and druggists, (b) even if a "bacterin," and (c) even if an uncompounded natural substance merely dried or refined. (T. D. 2785; Jan. 23, 1919.)

—— **Trade-mark or name.**

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, is not of itself a trade-mark under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, is a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label is not a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

—— **Waters.**

Artificial mineral waters, not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic-acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers, at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

PROTECTIVE ASSOCIATIONS.

Capital stock tax.

Mutual protective association organized under a statute, whose only source of revenue is the assessments paid by its members and whose net income for each year is paid into a reserve fund, constituting sole resource of company, aside from current assessments, for payment of losses, is an insurance company within meaning of act September 8, 1916. (T. D. 2750, art. 3; Aug. 9, 1918.)

PUBLIC OFFICERS.

Admissions tax.

Municipal officers on official business when admitted free are not taxable under section 700 of the act of October 3, 1917; municipal officers include policemen and firemen when in attendance in the course of their duty. (T. D. 2681; Mar. 26, 1918.)

Bonds—War tax.

Bonds given by officials of a State, township, county, or village for faithful performance of duties, are free from Federal taxation on broad ground that sovereign States and subdivisions thereof are constitutionally free from taxation by Federal Government. (T. D. 2624; Dec. 14, 1917.)

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Transportation charges—Exemptions.

Exemption may be claimed only where person transported is incurring charge in performance of official duties as officer or employee of United States; thus, charges paid by soldiers traveling on furloughs at their own expense are not exempt; fact that amount of mileage or other allowance paid or made for transportation in performance of official duties may be more than sufficient to reimburse officers or employee for transportation payment does not prevent application of exemption provision of section 502 of act of October 3, 1917, to such payment; exemption applies to amounts paid as fares and to amounts paid for accommodations in parlor or sleeping cars or on vessels. (T. D. 2676; Mar. 18, 1918.)

PUBLIC UTILITIES.

Excess profits tax—Consolidated returns of affiliated corporations.

Railroads, gas, electric, water, or other public-service corporations when operated independently and not physically connected or merged—particularly when situated in different jurisdictions and subject to regulation by public-service commissions—will not be required or permitted, without special permission, obtained in advance, to make a consolidated return; when public utility is owned by industrial corporation, and is operated as a plant facility or as an integral part of a group organization of affiliated corporations and such corporations are required to file consolidated return, return of such public utility shall be included therein. (T. D. 2662; Mar. 6, 1918.)

Excise taxes.

Money received for service connections and pipe extensions are not permitted to be deducted from gross amount of income, as they do not come within any of the permitted classes of deductions mentioned in the act of August 5, 1909; moneys so expended are invested in permanent improvements which tend to enhance the rental and the market value of the water system. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

Fact that corporation was a public utilities corporation which, under the laws of the State of California, was not owner of property but merely intrusted with use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, and the act of August 5, 1909, making no exceptions in favor of public utilities. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

Income taxes.

Public utilities whose income inures to benefit of any State, Territory, or political subdivision thereof are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

Telegraph, etc., messages—Official business.

Under section 502 of act of October 3, 1917, radio messages, telegraph messages, and telephone messages relating to Government business, which originate in United States, and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

All telegraph, telephone, or radio messages of officers and employees of United States on official business are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telegraph, telephone, or radio company; officer or employee sending telegraph or radio message should certify thereon that it is on account of official business and not for private purposes; form of certificate indicated. (T. D. 2551; Oct. 22, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid

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Telegraph, etc., messages—Official business—Continued.

for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

Transportation of persons and property.

See "Transportation Tax."

RADIO MESSAGES.

Official business—War tax.

Messages of officers and employees of United States, etc., on official business are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of radio companies; officer or employee sending message should certify thereon that it is on account of official business and not for private purposes; form of certificate indicated. (T. D. 2551; Oct. 22, 1917.)

Under section 502 of act of October 3, 1917, radio messages relating to Government business, which originate in United States and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory and are paid from funds thereof are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

RAILROADS.

Capital stock tax.

Railroad corporation which has leased its property for a term of years and parted with its control and management, but which maintains its corporate organization and collects rentals from lessee company and distributes same among its stockholders is not engaged in business so as to be liable for tax, notwithstanding lease provides for recovery of property in case of default; this does not apply where corporation is organized for ostensible purpose of building and operating a railroad and leases the road before it is built. (T. D. 2418; Dec. 15, 1916.)

Corporation tax—"Organized for profit."

Where profit was one of the substantial objects of the organization of a corporation, incorporated to provide and operate a terminal for certain railroads, it is organized for profit within the meaning of the act of August 5, 1909. (T. D. 2671; Mar. 11, 1918. Ct. Dec.)

Income taxes—Gross income.

Stock trust certificates or leased line certificates, as case may be, issued by lessee for purpose of securing or holding control of stock of lessor are held to be issued in lieu of certificates of capital stock and they will be treated as capital stock and amounts received by holders are dividends to them, to be treated as rentals by both lessee and lessor and constitute allowable deduction in one case and item of income in other accordingly as they are paid and received. (T. D. 2690; art. 104.)

If leased or purchased line keeps separate books of account or income is or can be segregated, or if lessee or operating company pays it a certain rental, or in lieu of rental pays certain per cent of dividends on its stock, interest on its bonds, taxes, etc., lessor will return same as its income, and lessee or operating company will make its return as though it were in no way related to leased line. (T. D. 2690; art. 125.)

Railroad company operating leased or purchased lines as integral part of its line or system and keeping no separate books of account as to such leased or purchased line, income from operation of which can not be segregated, shall include in its income all receipts derived therefrom. (T. D. 2690; art. 125.)

—— Net income.

Where bonded or other indebtedness of leased or purchased line has been assumed by operating company, it may deduct from its gross income interest paid on such indebtedness, provided such interest plus interest paid on its own indebtedness is

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Income taxes—Continued.

—— **Net income**—Continued.

not in excess of limit fixed by law; in this event the leased or purchased line so long as it has a corporate existence will make return of annual net income setting out that on its own account it has neither income nor expenses and that both are taken up in return of operating company, naming it. (T. D. 2690; art. 125.)

Car-trust certificates secured by equipment are obligations of railroad company similar to corporate bonds, etc., and trustees in whose names legal title to equipment stands are not an association within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and are therefore not taxable, but they are for purposes of such title a fiscal agent paying off the obligations, both principal and interest, of railroad companies with funds appropriated by such companies; companies may mortgage such certificates in amount of bonded or other indebtedness reported under item 2 of return, Form 1031, and interest paid thereon with interest on other obligations will be deductible; if certificates contain provision by which obligor agrees to pay portion of tax imposed upon obligee or reimburse obligee for any portion of tax, or pay interest without deduction for any tax, trustees, in making interest payments will in absence of claims for exemption, where interest payments are made to individuals, withhold normal income tax on such payments regardless of amount thereof. (T. D. 2690; art. 188.)

System—Definition.

The term "railroad system," as used in subdivision (b) of section 501 of the act of October 3, 1917, means two or more railroads and such other carriers as may be operated in conjunction therewith, all such railroads and other carriers being under one general operating management, and even though each such railroad or other carrier maintains its corporate identity. (T. D. 2676; Mar. 18, 1918).

Transportation of persons and property.

See "Transportation"; "Transportation Tax."

RAIN CHECKS.

Admissions.

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statement for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

RANCHES.

Income taxes—Gross income.

Corporations engaged in operating plantations, ranches, stock farms, poultry farms, and lands used for raising fruit, truck, etc., including orchards of all kinds, shall make their returns on the basis of the products actually marketed and sold during the year, whether such products were produced or purchased and resold. (T. D. 2690; art. 123.)

—— **Net income.**

Amounts expended in development of ranches prior to time when productive stage is reached, constitute investments of capital. (T. D. 2690; art. 4.)

—— **Returns.**

See "Farmers."

Wine—Family use.

The exemption given by section 402 (b) of act September 8, 1916, authorizing producer of wines to manufacture 200 gallons thereof for use of his own family without payment of tax, does not apply to wines furnished ranch hands or boarders. (T. D. 2765; Oct. 21, 1918.)

REAL ESTATE AGENTS.

Income tax—Information at source.

Payments of rent made to real estate agents do not require reports of information (but agent must report payments to landlord if the same amounts to $800 or more during 1917). (T. D. 2670; Mar. 11, 1918.)

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REAL ESTATE CORPORATIONS.

Capital stock tax.

Corporations whose business is principally the holding and management of real estate are actually "engaged in business" so as to be subject to the tax imposed by section 407 of the act of September 8, 1916. (T. D. 2418; Dec. 15, 1916.)

REAL ESTATE SUBDIVISIONS.

Income taxes—Gross income.

In case of real estate corporations, purchasing tract of land with view to dividing it into lots or parcels to be sold as such, entire value as of March 1, 1913, or cost, if acquired subsequent to that date, shall be equitably apportioned to the several lots or parcels so that any gain derived may be returned as income for year in which sale was made; rule contemplates that there will be gain or loss in every sale and does not contemplate that capital invested in entire tract shall be extinguished before any taxable income shall be returned; sale of each lot or parcel will be treated as separate transaction and gain will be accounted for accordingly. (T. D. 2690; art. 117.)

—— Net income.

Where real estate corporation purchases tract of land with view to dividing it into lots or parcels to be sold as such, and loss results from sale, amount of loss to be deducted will be ascertained in like manner as if gain had been realized, and will be amount by which selling price is less than the value, as of March 1, 1913, or less than the cost, if acquired subsequent to that date, as the case may be. (T. D. 2690; art. 117.)

REASONABLE CAUSE.

Definition.

The words "reasonable cause," as used in section 3176, Revised Statutes, as amended by the act of September 8, 1916, providing that if after delinquency has ensued and before receiving notice from collector of such delinquency and request for return, delinquent shall have filed his return, accompanied with showing that failure to file in time was due to reasonable cause, no such addition shall be made to the tax, is held to be such a condition of fact as had the taxpayer in default exercised ordinary business care and prudence it would have been impracticable or impossible for him to have filed return on prescribed time. (T. D. 2690; art. 54.)

RECEIPT.

Definition.

Actual receipt is reduction to possession; constructive receipt is where income is credited to or made available to recipients, and is to be reported as income. (T. D. 2690; art. 4.)

Excise tax on boats.

Taxpayer must keep tax receipt about boat when in use available for examination by Government officers. (T. D. 2753; Aug. 23, 1918.)

RECEIVERS.

Corporations—Capital stock tax.

Corporations in hands of receivers not required to make return on Form 707 unless receivership terminates before close of taxable period, nor will corporations operating under their corporate management but which were in hands of receivers during preceding taxable (fiscal) year be required to file return. (T. D. 2424; Dec. 30, 1916.)

Excise taxes—Liability.

A receiver continuing a business under court order is liable to tax on articles produced and sold by him. (T. D. 2719; Art. VI.)

Income taxes—Returns.

Receivers who, as officers of court, stand in the stead of some principal, must account for income tax as principal would have been required to account. (T. D. 2690; art. 26.)

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Income taxes—Returns—Continued.

Under section 13, paragraph (c), receivers, trustees in bankruptcy, or assignees in charge of and operating property and business of corporations, must make returns of annual net income and pay tax regardless of what disposition, subject to orders of court, may be made of such income; such receiver, etc., stands in place of corporate officers and must perform all duties and assume all liabilities which would devolve upon such officers were they in control; income which he receives is income of corporation and is subject to tax imposed in so far as it exceeds deductions or allowances authorized by law, and such receiver, etc., must make true return of annual net income covering each year or part of each year, during which he is in custody and control of business or properties, and will be liable to all penalties for failure to meet any of its requirements. (T. D. 2690; art. 209.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision. (T. D. 2962; Jan. 7, 1920.)

RECORDS.

See specific heads.

RECREATION CLUBS.

See "Social Clubs."

RECTIFIED SPIRITS.

See "Distilled Spirits."

Alaska.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Beverages.

Prepared sirups and extracts used by rectifiers of spirits are not taxable under section 313 (a) of act of October 3, 1917. (T. D. 2719; Art. XXX.)

Bottling tanks.

Where rectifier desires to continue use of bottling tanks heretofore placed under wholesale liquor dealer's stamps for that purpose, he may withdraw spirits from the 27 B packages directly to such tanks, on which must be placed stamps sufficient to pay tax on contents at 15-cent rate; stamps must be completely effaced when contents of tank have been withdrawn into bottles. (T. D. 2566; Oct. 27, 1917.)

Computation of tax.

Tax is to be computed on proof gallons, but second decimal place is to be disregarded following practice authorized in taxpaying spirits at distilleries, and proof gallons will be written in the body of the stamp by officer issuing same. (T. D. 2548, 2560; Oct. 4, 1917.)

Inventory and return.

Spirits subject to 15-cent tax, as provided for in Mim. 1619 of September 19, 1917, must be inventoried and returned separately, and tax is immediately payable; tax is applicable to rectified spirits still in possession on October 4, 1917, of rectifier thereof, whether in bottles, cased bottles, or packages bearing marks, brands, and stamps, or retail packages not bearing marks, brands and stamps. (T. D. 2566; Oct. 27, 1917.)

Liqueurs, cordials, and similar compounds.

Any domestic wines may be used in manufacture of liqueurs, cordials, and similar compounds, provided no distilled spirits are added; prohibition against mixing of distilled spirits with wines does not apply to limited use of alcohol in making of fluid extracts from herbs which may be used in manufacture of cordials; quantity or percentage of alcohol permitted in preparation of such extracts for manufacture of cordials must in all cases conform to United States Pharmacopœia. (T. D. 2387; Oct. 30, 1916.)

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Liqueurs, cordials, and similar compounds—Continued.

Cordials, including cocktails, are subject to tax only when containing wine fortified under the act of September 8, 1916; vermuth, while taxed under the act of October 22, 1914, as a cordial is now subject to tax as a wine. (T. D. 2387; Oct. 30, 1916.)

Artificial or imitation wines can not be fortified under the provision of paragraph (c) of section 402 of the act of September 8, 1916, and if containing distilled spirits can not be used in the manufacture of cordials. (T. D. 2387; Oct. 30, 1916.)

Unfermented prune juice, unless fortified with wine or spirits and sold as wine, or unless mixed with fortified wine and sold as a cordial, is not subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Honey wine, unless so sweetened as to be a cordial, is subject to tax as wine. (T. D. 2387; Oct, 30, 1916.)

Wines used in manufacture of vermuth must be first tax paid, and vermuth, as such, is subject also to tax imposed by act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Vermuth in hands of retail dealers September 8, 1916, is subject to tax under act of October 22, 1914, as a cordial. (T. D. 2387; Oct. 30, 1916.)

Unfortified wines, if not mixed with distilled spirits, may be used in manufacture of vermuth, but such wines, as also the vermuths so manufactured, are each subject to tax; still wines fortified under the act of October 22, 1914, may be used in the manufacture of vermuth subject to the conditions above named. (T. D. 2387: Oct. 30, 1916.)

Wine stamps issued under emergency revenue act of October 22, 1914, may be used for wines, cordials, etc., taxable under the act of September 8, 1916; such stamps may be affixed to the casks or outer cases containing the taxable wines; bottles of wine removed from stamped cases should, however, be labeled by the dealer as containing wine removed from stamped packages or cases; bottles removed from unstamped cases should be stamped. (T. D. 2387; Oct. 30, 1916.)

Wines and cordials in hands of wholesale dealers September 8, 1916, not having been removed for sale directly to consumers, are not subject to tax under act of October 22, 1914. (T. D. 2387; Oct. 30, 1916.)

Wines and cordials in hands of retail dealers September 8, 1916, having been removed for consumption prior to that date are subject to tax under the act of October 22, 1914. (T. D. 2387; Oct. 30, 1918.)

Cocktails prepared on premises where they are consumed and not exposed for sale need not be labeled or stamped. (T. D. 2387; Oct. 30, 1916.)

Wines fortified under the act of September 8, 1916, if containing added sugar and aromatic substances, under whatever name sold, will be subject to tax as cordials. (T. D. 2387; Oct. 30, 1916.)

Tax-paid wine fortified under the act of September 8, 1916, if so treated as to bring it within class of cordials, is subject to tax as a cordial. (T. D. 2387; Oct. 30, 1916.)

Cordials, etc., held by wholesale dealers when act of September 8, 1916, took effect, and those subsequently received (unless containing sweet wine fortified under that act) are not subject to tax. (T. D. 2387; Oct. 30, 1916.)

Vermuth made from tax-paid spirits without addition of wine is taxable as wine; use of both wine and spirits is prohibited by paragraph (f) of section 402 of act of September 8, 1916, unless wine has been fortified under the act, in which case the product is taxable as a cordial. (T. D. 2387; Oct. 30, 1916.)

Cordials are taxable under the act of September 8, 1916, only when containing wine fortified under that act; mixing of wine not so fortified with distilled spirits in the manufacture of cordials is within prohibition of paragraph (f) of section 402 of such act. (T. D. 2387, Oct. 30, 1916.)

Vermouth is subject to tax as wine; where made from tax-paid spirits, without addition of wine, it is taxable as wine; use of both wine and spirits is prohibited by paragraph (f) of section 402 of the act of September 8, 1916, unless the wine has been fortified under the act, in which case the product is taxable as a cordial. (T. D. 2387; Oct. 30, 1916.)

Tax-paid still wines, domestic and foreign, and tax-paid distilled spirits may be used by rectifiers in the manufacture of vermuths, liqueurs, cordials, and similar compounds and fluid extracts, under stated conditions; bond given by rectifier; marking of containers; notice and records; gauging of products after rectification; marking, branding, and stamping compounds. (T. D. 2403; Nov. 29, 1916.)

Manufacturers manufacturing vermuth or taxable liqueurs, etc., required, under paragraph (h) of section 402 of the act of September 8, 1916, to execute a tax bond in

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Liqueurs, cordials, and similar compounds—Continued.

stated form, and to keep all such taxable articles separate and apart from nontaxable articles; bond to be executed in duplicate with sureties satisfactory to collector in a penal sum at least equal to tax on estimated quantity of articles named remaining on hand at any one time, but in no case less than $5,000; in case of insufficiency new or additional bond will be required by collector. (T. D. 2404; Nov. 27, 1916.)

Any person manufacturing compound liquor in such manner as to make him a rectifier as defined in section 3244, Revised Statutes, shall be liable to special tax as such, except that persons manufacturing liquor for personal consumption and retail liquor dealers compounding solely to fill orders for drinks received at the bar, after such orders have been received, shall not be charged with liability. (T. D. 2546; Oct. 23, 1917.)

Marks and brands.

All products of rectification from molasses, spirits, or spirits other than grain at rectifying houses, must be marked and branded in the same manner as spirits derived from grain. (T. D. 2548, 2560; Oct. 4, 1917.)

Occupational tax.

Straining of distilled spirits through cotton, cotton cloth, or other material for purpose of removing particles of charcoal or other extraneous matter on premises of wholesale or retail liquor dealer, without payment by such dealer of special tax as rectifier of distilled spirits will not be permitted. (T. D. 2953; Nov. 29, 1919.)

The use of what is commonly known as a "hat filter" by wholesale or retail liquor dealer without payment of special tax as rectifier of distilled spirits is prohibited. (T. D. 2953; Nov. 29, 1919.)

Retail liquor dealers.

Provision of section 304 of the act of October 3, 1917, prohibiting reduction in proof or increase in volume in any quantity by addition of water or other substance, rectified spirits on which the 15-cent tax has been paid, does not apply to reduction of proof by retailers made at time of sale, but such reduction may not be made in quantity in advance of sale of drinks. (T. D. 2566; Oct. 27, 1917.)

Stamps.

Instructions with reference to furnishing wholesale liquor dealers' stamps in lieu of or in exchange for stamps for rectified spirits; bottling directly from package covered by stamps for rectified spirits; size of packages. (T. D. 2548, 2560; Oct. 4, 1917.)

Transfers to different containers.

Transfer of distilled spirits from one container to another, whether rectified or not, without placing label upon new container bearing stated legend, forbidden, unless spirits shall have been denatured under supervision of internal-revenue officers; regulations as to books and transcripts. (T. D. 2559; Oct. 26, 1917.)

Wine.

Rectifiers are not entitled, under the act of September 8, 1916, to receive on their premises untax-paid wine or spirits. (T. D. 2387; Oct. 30, 1916.)

Use of filtering apparatus will be permitted for filtering wines, but if otherwise used on premises of dealers such dealers will thereby incur special tax as rectifiers. (T. D. 2387; Oct. 30, 1916.)

Where, in cellar treatment of wine to which has been added a sugar solution for purpose of correcting natural deficiencies, additional sugar is needed to perfect such wine according to commercial standards, same may be added (if before removal from winery or other bonded premises) without rendering wine makers or bonded dealers liable to special tax as rectifiers; wine makers and proprietors of bonded premises in blending or otherwise treating wines to perfect them according to commercial standards will not thereby incur liability as rectifiers, such blending being regarded as cellar treatment, authorized by the act of September 8, 1916. (T. D. 2470; Mar. 27, 1917.)

REDEMPTION.

Admission tickets.

Where rain checks attached to tickets sold for canceled baseball game are redeemable in cash with refund of the tax, or by issue of ticket for another game, the box-office statement for the canceled game may be marked "Canceled," but in its next

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Admission tickets—Continued.

return the tax must be accounted for by the club on any tickets not redeemed as shown by comparison of box-office statemnet for canceled game with statements for subsequent games. (T. D. 2681; Mar. 26, 1918.)

Where a ticket is redeemed before a performance, the tax imposed by section 700 of the act of October 3, 1917, as well as the price of the ticket, should be refunded. (T. D. 2681; Mar. 26, 1918.)

REFUND OF TAX.

See "Claims."

REGISTRATION.

Produce or merchandise sales.

Regulation No. 40, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

Proprietor of place of entertainment.

Every person, corporation, etc., required to collect tax on admissions shall on the 1st day of April, 1918 (and if not on that date engaged in business then within 10 days after engaging in business), and annually thereafter on the 1st day of July file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

Where a theater, hall, park, or place is leased and the procedure authorized by Article XXVII of Regulations 43 is not adopted, the lessee, precisely like the proprietor, must comply in every respect with the regulations regarding registration. (T. D. 2681; Mar. 26, 1918.)

Stills.

Under section 3244, Revised Statutes, all stills which are manufactured can be removed only under permit from the collector, which permit must be in pursuance of the notice by the manufacturer and must be registered on Form 26 when set up. (T. D. 2993; Mar. 22, 1920.)

Registry of still or distilling apparatus, set up, required by section 3258, Revised Statutes, must be made on permit No. 26, in triplicate, and delivered to collector, who will send one copy to the Federal director of prohibition for the State and one to the Commissioner of Internal Revenue; this registry must be made immediately after the still or distilling apparatus comes into possession, custody, or under control of such person, whether it be a new still or distilling apparatus, or whether one party succeeds another in the possession, custody, control, or use thereof. (T. D. 2993; Mar. 22, 1920.)

The requirement of law that all stills set up must be registered, whether intended for use or not, applies to all stills, of whatever size and for whatever purpose intended, whether for distillation of spirits or for pharmaceutical or other purposes; and any still or distilling apparatus not so registered is subject to forfeiture to the United States, together with all personal property in the possession or custody or under the control of the person having possession or control of such still or distilling apparatus and found in the building or in any yard or inclosure connected with the building in which same may be set up. (T. D. 2993; Mar. 22, 1920.)

It will be assumed that any still is intended for the production of distilled spirits, with exception of retorts for the production of wood alcohol, unless the manufacturer shall furnish to the collector of the district evidence under oath to show that the still is to be used for other purposes than distilling spirits, and this evidence must show affirmatively the exact purpose for which still is to be used and where it is to be set up and used; upon filing of evidence in question along with notice to collector of intention to remove the still from the place of manufacture, the still may be removed without payment of tax thereon and without permit called for in section 3265, Revised Statutes, but the same must be registered when set up; this ruling does not apply to glass laboratory stills of trifling capacity used only for chemical purposes. (T. D. 2993; Mar. 22, 1920.)

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Stock sales.

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

RELIGIOUS SOCIETIES.

Admissions to entertainments for.

Where proceeds of admissions inure exclusively to benefit of religious institutions, societies, or organizations, admissions are not taxable; character of organization for which benefit is given, and not purpose of particular benefit, is controlling; admissions to any entertainment given for charity are taxable if funds are administered by any persons or organizations other than religious, educational, or charitable institutions, societies, or organizations. (T. D. 2681; Mar. 26, 1918.)

Every institution, society, or organization claiming exemption from collecting tax on admissions by reason of being religious, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal-revenue officers complete record of admissions to each performance and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

Capital stock tax—Exemption.

Corporation or association organized and operated exclusively for religious purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Excess profits tax—Gifts.

Contributions or gifts for religious, charitable, etc., purposes allowed as deduction for purposes of income tax under paragraph "ninth" of subdivision (a) of section 5 of the act of September 8, 1916, as amended, may, subject to limitations therein contained, be deducted in computing net income of trade or business only when shown to satisfaction of Commissioner of Internal Revenue that such contributions or gifts are made from trade or business and not by individual in his personal capacity. (T. D. 2694; art. 37.)

Excise taxes.

There is no exemption from tax imposed by section 600 of the act of October 3, 1917, in the case of films used exclusively for educational, charitable, or religious purposes. (T. D. 2719; Art. XII.)

Boat used by Y. M. C. A. in transporting its religious workers and others is not used for trade, but for other serious purpose, and is subject to tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Income taxes—Exemption.

Corporations or associations organized and operated exclusively for religious purposes are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of corporations or associations organized and operating exclusively for religious purposes is conditional upon such an organization filing an affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status or organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner

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Income taxes—Exemption—Continued.

of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

Sacramental wine.

Procedure outlined in T. D. 2765 should be followed where wines are produced for sacramental purposes by churches or religious orders, and production and distribution are entirely under clerical supervision; such wines may be removed from premises where produced, in accordance with T. D. 2788; labels required by that decision may be omitted; wine used for sacramental purposes is subject to tax. (T. D. 2881; July 3, 1919.)

REMEDIES FOR DISEASE.

See "Medicinal Preparations."

RENT.

See "Landlord and Tenant."

REPAIRS.

Excise taxes—Deductions.

A steamship company is entitled to deduct from gross income in annual tax returns required by section 38 of the act of August 5, 1909, amounts paid out for ordinary and necessary repairs in the maintenance and operation of its business and property, and in addition a reasonable allowance for depreciation of property, if any. (T. D. 2773; Nov. 8, 1918. Ct. Dec.)

Income taxes—Deductions.

Amounts expended by tenants for taxes and necessary repairs under agreement in addition to stipulated cash rental, are items of taxable income and as such should be reported in return of landlord; corresponding amount may be deducted by the landlord. (T. D. 2690; art. 4.)

Cost of incidental repairs which neither add to value of property nor appreciably prolong its life, but keep it in an ordinarily efficient operating condition, may be deducted as expense, provided that plant or property account is not increased by amount of such expenditures; such repairs to extent that they arrest deterioration should have effect to reduce depreciation charge otherwise deductible. (T. D. 2690; art. 131.)

Cost of incidental repairs necessary to keep buildings erected by lessee corporation in efficient condition for purposes of their use may be deducted by such corporation as an expense of operation and maintenance. (T. D. 2690; art. 140.)

Lessee corporation may not deduct any depreciation with respect to buildings erected by it on leased ground, but cost of incidental repairs necessary to keep buildings in efficient condition for purpose of their use may be deducted as expense of operation and maintenance; if life of improvement is less than life of lease, depreciation may be taken by lessee, based upon cost and life of improvement. (T. D. 2690; art. 140.)

Expenditures for incidental repairs which do not add to value nor appreciably prolong life of property are deductible as expenses by insurance companies other than mutuals, but including mutual life and mutual marine, but expenditures for new buildings, permanent improvements, or betterments, which increase value of property, or for restoring or replacing property, are not deductible; such expenditures are properly chargeable to capital account, to be extinguished through annual depreciation allowance. (T. D. 2690; art. 240.)

Insurance companies, other than mutuals, but including mutual life and mutual marine, may add to expenses in lieu of depreciation of furniture and fixtures, actual cost of repairs, replacements, and renewals of such furniture as is reported to State insurance department, provided that in case of an original investment cost thereof shall be charged to capital account. (T. D. 2690; art. 240.)

Jewelry—Excise taxes.

Merely repairing for a customer jewelry owned by him is not taxable under section 600 (e) of the act of October 3, 1917. (T. D. 2719; Art. XVI.)

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Moving-picture films—Excise taxes.

Tax imposed by section 600 of the act of October 3, 1917, does not apply to repairs of positive films, but does to the negative films used in making such repairs. (T. D. 2719; Art. XII.)

REPLACEMENT FUND

Income and excess profits taxes.

When corporation as result of suit or otherwise secures payment for damages which it may have sustained, and amount of such payment is in excess of amount necessary to make good the damage or damaged property, the amount of such excess shall be considered and returned as income for year in which received; if entire or an estimated amount of damage shall have been previously charged off and deducted from gross income, amount recovered shall be returned as income, but if amount recovered is less than damage sustained or less than an amount necessary to make good the damage, difference between actual amount of damage sustained and amount recovered will be deductible as loss. (T. D. 2706; Apr. 25, 1918.)

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to income and excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to Commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schdeules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

REPORTERS.

Newspaper reporters—Admissions.

Newspaper reporters and critics, occupying space in audience, must pay tax imposed by section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

Admissions of baseball reporters and telegraphers, occupying special space at baseball parks, and admitted by passes issued by baseball writers' association, are exempt from tax under section 700 of the act of October 3, 1917. (T. D. 2681; Mar. 26, 1918.)

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REQUESTS FOR TRANSPORTATION.

Governmental exemption.

See "Transportation Tax."

REQUISITION OF PROPERTY.

Compensation—Income and excess profits taxes.

In case of property title to which has been requisitioned for war uses, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to income and excess profits taxes. (T. D. 2706; Apr. 25, 1918.)

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, amy be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof, accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund, subject to approval of Commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to Commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

RESALE.

Admission tickets.

Where all the admissions to an entertainment are sold en bloc to a purchaser for a specific sum and no charge is made for individual tickets, the tax is on the price paid for the entertainment, and the purchaser must account for the tax on any excess over the purchase price for which he may resell the tickets; where broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

Floor tax—Wholesalers.

Dealers in automobiles who sell both to users and subagents for resale are wholesalers within the meaning of section 602 of the act of October 3, 1917, and are liable to floor tax imposed by said section. (T. D. 2577; Nov. 13, 1917.)

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Income tax—Deducting price of stock purchased for resale.

Amount expended in purchasing stock for resale is an investment of capital and is not to be taken as an item of expense for year in which stock was purchased or for any subsequent year, but when stock so purchased is sold its cost is to be deducted from sales price in ascertaining amount of gain or profit returnable for tax purposes; return where cost of stock or farm products purchased in 1916 or any previous year for resale has been claimed as a deduction. (T. D. 2665; Mar. 8, 1918.)

Where farmer has adopted inventory method of keeping accounts, he should, in order to ascertain gross income, add to amount received from sales during year the inventory of the live stock and products on hand at the close of the year, and then deduct amount expended in purchasing live stock and products plus inventory of live stock and products at beginning of year; no deduction can be made for stock or products lost during year; stock purchased for any purpose other than resale may be included in inventory for each year at a figure which will reflect reduction in value estimated to have occurred through increase, or age, or other causes; cost price of articles sold must not be taken as additional deduction. (T. D. 2665; Mar. 8, 1918.)

RESERVE FUNDS

Definition.

The words "reserve funds," as used in act of August 5, 1909, have reference to the funds ordinarily held as against the contingent liability on outstanding policies. (T. D. 2501; June 18, 1917. Ct. Dec.)

Insurance companies.

Where there has been net decrease in reserve funds required to be maintained by insurance company, so much of decrease as is released to general uses of the company and increases its free assets is income to the company. (T. D. 3013; May 3, 1920. Ct. Dec.)

Reserve funds required by rules and regulations of State insurance departments, promulgated in the exercises of proprietary power conferred by statute, are reserve funds "required by law" within meaning of taxing acts. (T. D. 3013; May 3, 1920. Ct. Dec.)

The reserve funds, the net addition to which is to be deducted from the gross income of a life insurance company in computing its net income, are those funds which are built up to mature the policy, and do not include funds reserved because of liabilities on supplementary contracts not involving life contingencies and canceled policies upon which a cash-surrender value may be demanded. (T. D. 3057; Aug. 16, 1920. Ct. Dec.)

RESIDENT ALIEN CORPORATIONS.

Definition.

The term "resident alien corporations," as used in T. D. 2382, covers such foreign organizations as have an office or place of business in the United States. (T. D. 2382; Oct. 19, 1916.)

Mere maintenance of an office, or fiscal agency, in the United States for the payment of dividends on stock or interest on bonds, does not constitute a foreign corporation a "resident" of the United States within the meaning of Article 35 of Regulations No. 33, Revised. (T. D. 2716; May 28, 1918.)

RESTAURANTS.

Cabarets.

See "Admissions."

RETAILERS OF GOODS.

Alcohol.

"See Alcohol."

Cigars—Determination of price.

See "Cigars."

Distilled spirits.

See "Distilled Spirits."

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Excise taxes.

See "Excise Taxes."

Floor tax.

See "Floor Taxes."

Oleomargarine.

See "Oleomargarine."

Stamp taxes—Playing cards.

See "Stamp Taxes."

Wines.

See "Wines."

RETURNS OF INFORMATION.

Income-tax purposes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

RETURNS OF TAXPAYERS.

See specific heads.

Inspection.

See "Inspection."

REVENUE AGENTS AND OFFICERS.

Leave of absence.

Applications for leave of absence required to be in writing, or by telegraph or telephone if emergency requires, and to be reported by revenue agent under whom agent or inspector is assigned to duty; leave of absence is subject to approval of Commissioner of Internal Revenue; telegraph or telephone charges incident to procuring leave are at expense of officer desiring such leave; manner of reckoning leave of absence and extent thereof. (T. D. 2369; Sept. 12, 1916.)

Reports.

Special disbursing agents will discontinue reporting on Form 7300 the expenses incurred in each State for miscellaneous items and services of special employees, guides, posse men, and informers. (T. D. 2398; Nov. 18, 1916.)

Use by revenue agents of Form 629 discontinued; Form 132 should contain statement of duties performed. (T. D. 2398; Nov. 18, 1916.)

ROCK, RYE, AND GLYCERIN.

Beverages.

See "Beverages."

ROOT BEER.

Beverages.

See "Beverages."

ROYALTIES.

Excise taxes—Net income.

Lessee of mining property may not deduct proportionate value of ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct proportionate part of royalty paid in advance. (T. D. 2721; June 4, 1918. Ct. Dec.)

Income taxes—Gross income.

Royalty paid to proprietor by those who are allowed to develop or use property, or operate under some right belonging to him, is to be accounted for as income. (T. D. 2690; art. 4.)

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Income taxes—Gross income—Continued.

Gross income from sources within United States, as applied to foreign corporations, includes income from royalties from business transacted or capital invested in the United States. (T. D. 2690; art. 89.)

Royalties received in accordance with contract by which corporation has assigned patent rights to manufacture machines, etc., are income and should be so accounted for. (T. D. 2690; art. 113.)

—— **Net income.**

Owner of patent may deduct from gross income each year until capital invested therein is extinguished sum ascertained by dividing cost of patent by number of years constituting its life or by number representing years of its life remaining after date of acquirement. (T. D. 2690; art. 113.)

SACCHARINE LIQUID.

Distilled spirits.

Dilute saccharine liquid, derived from sawdust, wood waste, pulp, and like bases, is material from which the production of distilled spirits for beverage purposes is prohibited by section 15 of the food-control act of August 10, 1917. (T. D. 2526; Sept. 25, 1917.)

Dilute saccharine liquid derived from sawdust, wood waste, pulp, and like bases may not be used in producing beverage spirits. (T. D. 2559; Oct. 26, 1917.)

SACRAMENTAL WINES.

See "Wines."

SAFE-DEPOSIT COMPANIES.

Estate taxes—Nonresident decedents.

Safe-deposit companies having property in this country of nonresident decedent may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

SAILORS.

See "Army and Navy."

SALARY.

See "Compensation."

SALES.

Admission tickets.

See "Admissions."

Capital stock—Stamp taxes.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value, in the case of shares having a face or par value and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting-trust certificates, to transfer of shares in so-called Massachusetts trusts, and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

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Capital stock—Stamp taxes—Continued.

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to the same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock, prior to exercise of the right, and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of stock does not attach to exchange of stock certificates of merged corporation for stock certificate of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for old certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Cigars—Retail price.

The ordinary retail price of a single cigar is the actual retail price in all cases at which cigars are sold singly; manner of determining the ordinary retail price of a single cigar in case of cigars which are manufactured or imported to retail at the rate of 3 for 10 cents or 10 for 35 cents and which are practically never sold in any other manner, stated. (T. D. 2645; Jan. 17, 1918.) Determination of price where the box in which the cigars come is the unit of sale. (T. D. 2569; Oct. 17, 1917.)

Consignments of property by carriers.

Net amount realized from sale of consignment, refused or unclaimed, or of carload of property or a perishable consignment sold under emergency conditions, for benefit of whom it may concern, shall be considered transportation charge, and 3 per cent tax shall apply to such amount and be paid by purchaser; provided, however, that if such amount be in excess of actual transportation charges accruing on such consignment, tax shall not apply to such excess. (T. D. 2676; Mar. 18, 1918.)

—— Narcotics.

When sale of express or freight package containing narcotic drugs is to be made, collector of district should be notified sufficient length of time in advance to permit detail by him of officer to inspect packages and identify such as contain narcotic drugs; revenue officer must be present at sale to see that packages are sold to those persons only who are registered under Federal law or to officers of Federal, State, or municipal Governments exempt from its provisions; purchaser must at time of purchase make supplemental inventory, in duplicate, of drugs coming into his possession, he to retain original for file with his order forms and forward duplicate to collector, who is required to notify Internal Revenue Bureau when such transactions take place and furnish name and address of purchaser. (T. D. 2712; May 13, 1918.)

Definition.

The word "sales" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes all sales, agreements to sell, memoranda of sales, and all deliveries or transfers of legal title, except as otherwise specifically provided in such regulations. (T. D. 2608; Nov. 30, 1917.)

The word "sale" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes all sales or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales." (T. D. 2608; Nov. 30, 1917.)

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Excise tax on sales of commodities.

See "Excise Taxes."

Floor tax—Sales through agent.

Where automobiles are sold at both wholesale and retail by a person who acts as agent for the manufacturer, no floor tax applies, but the manufacturer is liable for the tax upon all sales. (T. D. 2601; Dec. 3, 1917.)

—— Title to goods.

Goods shipped and invoiced prior to October 4, 1917, are property of consignee, and if shipped to wholesaler are subject to floor tax; if, however, title is reserved in manufacturer, wholesaler is relieved from tax. Where manufacturer consigns entire product to retailer, retaining ownership until goods are disposed of manufacturer must make return, under oath, of all goods sold to retailer from and after October 4, 1917. (T. D. 2547; Oct. 22, 1917.)

Future delivery—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and canceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Exempt transactions.

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery, which in good faith are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing-house association, and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax imposed by section 807, Schedule A, subdivision 5, act of October 3, 1917, to apply; sale by member of exchange made by mail or wire not at an exchange is not subject to the tax. (T. D. 2795; Feb. 26, 1919.)

—— Memoranda of sales.

Every sale or agreement, not evidenced by memorandum or contract expressly requiring immediate or prompt delivery, shall be deemd to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery, shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— Records.

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— Registration.

Regulation No. 49, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector, and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

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Future delivery—Continued.

—— Returns.

Clearing houses and persons making contracts of sale at, on, or in any exchange, etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses, acting as agents, required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— Stamp sales.

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; authority and bond of agent of State; requisitions for stamps; records; accounting; kind and color of stamps. (T. D. 2741; June 25, 1918.)

Income taxes—Claims.

Where land is sold to satisfy assessments, amount realized after deducting expenses of sale, should be credited to the lists, and the remainder, if uncollectible, claimed on Form 53; if land is bought in by collector for United States, amount for which same is purchased, after deducting expenses of sale, should be credited to assessments under limitations prescribed in Regulations No. 2, revised, and remainder, if uncollectible, claimed on Form 53. (T D. 2690; art. 256.)

—— Exemptions.

Farmers', fruit growers', or like association, organized and operated as a sales agent to market products of its members, in order to come within the exemption provided in paragraph eleventh of section 11 of the act of September 8, 1916, as amended, must establish to satisfaction of collector or Commissioner of Internal Revenue fact that, for their own account, they have no net income, and that entire proceeds of marketing products of their members, less necessary selling expenses, are turned back or paid to members on basis of quantity or produce furnished by them—quality and grade being considered—as purchase price of such produce. (T. D. 2690; art. 75.)

If, in course of their business, farmers', fruit growers', or like association, organized and operated as sales agent to market products of its members, purchase for cash at a stipulated price articles of produce with view to selling them for gain, they will be required to make returns of annual net income and include herein, for purpose of tax, all income derived from such transaction. (T. D. 2690; art. 75.)

—— Gross income.

Commissions paid salesmen are income to the salesmen as well as expense to the payer. (T. D. 2690; art. 4.)

Where corporation sells property on installment plans, title passing at time of sale, gain to be returned as income for year in which sale was made, will be excess of contract price over fair market price or value as of March 1, 1913, if property was acquired prior to that date, or of contract price over cost if acquired subsequent to that date. (T. D. 2690; art. 116.)

In case of real estate corporations, purchasing tract of land with view to dividing it into lots or parcels to be sold as such, entire value as of March 1, 1913, or cost, if acquired subsequent to that date, shall be equitably apportioned to the several lots or parcels so that any gain derived may be returned as income for year in which sale was made; rule contemplates that there will be gain or loss in every sale and does not contemplate that capital invested in entire tract shall be extinguished before any taxable income shall be returned; sale of each lot or parcel will be treated as separate transaction and gain will be accounted for accordingly. (T. D. 2690; art. 117.)

In all cases where inventories are taken for purpose of ascertaining gain or loss resulting from business of the year, inventories must be taken in accordance with instructions to be included in special regulations furnished upon application to collector of internal revenue. (T. D. 2690; art. 120.)

Corporation selling merchandise on installment basis, title passing to vendee at time of sale, will treat such contracts as accounts receivable and as sales during the year at their face value, accounting for as income the difference between the cost and sales price. (T. D. 2690; art. 120.)

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Income taxes—Continued.

—— **Gross income**—Continued.

In sale or contract for sale of personal property on installment plan, whether or not title remains in vendor until property is fully paid for, income to be returned by vendor will be that proportion of each installment which gross profit to be realized when property is paid for bears to gross contract price; if, for any reason, vendee defaults and vendor repossesses property, entire amount received on installment payments, less profit originally returned, will be income to vendor to be so returned for year in which property was repossessed. (T. D. 2707; Apr. 25, 1918.)

—— **Net income.**

Corporation disposing of patents by sale should determine profit or loss arising therefrom by computing difference between selling price and the cost or value as of March 1, 1913, if acquired before that date; apparent profit or loss should be increased or decreased, as case may be, by amounts deducted since March 1, 1913, as return of capital invested in such patents. (T. D. 2690; art. 109.)

Where buyer of property of corporation sold on installment plan, title passing at time of sale, forfeits his contract and fails to meet any of the payments contracted to be made, selling corporation may deduct from its gross income as a loss, such proportion of defaulted payments as was previously returned as gross income. (T. D. 2690; art. 116.)

Where real estate corporation purchases tract of land with view to dividing it into lots or parcels to be sold as such, and loss results from sale, amount of loss to be deducted will be ascertained in like manner as if gain had been realized, and will be amount by which selling price is less than the value, as of March 1, 1913, or less than the cost, if acquired subsequent to that date, as the case may be. (T. D. 2690; art. 117.)

While corporations engaged in farming may claim reasonable allowance for depreciation on stock purchased for breeding purposes no claim for depreciation on stock purchased for resale will be allowed. (T. D. 2690; art. 123.)

Cost of live stock purchased for resale by corporation engaged in operating plantations, stock farms, etc., is an allowable deduction under item of expense. (T. D. 2690; art. 123. But see T. D. 2665.)

Corporation which issues trading stamps, coupons, etc., for purpose of increasing business, which stamps or coupons are redeemable in merchandise, may deduct, as business expense, amount which such corporations actually expend for such stamps or coupons, and also actual cost of merchandise given in redeeming same. (T. D. 2690; art. 141.) In case of sale of assets, real, personal, or mixed, loss will be difference between cost thereof or value as of March 1, 1913, if acquired before that date, and price at which disposed of. (T. D. 2690; art. 147.)

No claim for depreciation on account of good will can be allowed; any loss resulting from or on account of investment in good will can be determined only when property or business to which good will attaches is sold or disposed of, in which case profit or loss will be determined upon basis of value of assets including good will if acquired subsequent to that date. (T. D. 2690; art. 167.)

If good will shall have been purchased at a determined price and shall be later sold at a price less than such cost, or less than determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such asset was sold. (T. D. 2690; art. 168.)

No deduction will be allowed for depreciation of trade-marks and trade brands; if such assets shall have been purchased at a determined price and shall be later sold at a price less than cost or less than their determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such assets were sold. (T. D. 2690; art. 168.)

Narcotics.

See "Narcotics."

Oleomargarine.

Manufacturers permitted to use as original containers for packing oleomargarine, paper or fiber boxes, provided boxes are durable and of substantial character; provisions of existing regulations governing marking and branding and affixing and canceling of tax-paid stamps declared applicable to original packages of paper or fiber, except that such stamps may be affixed by paste or glue, without addition of

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Oleomargarine—Continued.

tacks, staples, or brads, and without using shellac or other waterproofing material to cover the stamps; such original containers to be of such texture as will meet requirements for transportation of common carriers under existing classifications; manufacturers and wholesalers permitted to sell only in original packages and retailers must sell only from original stamped package in quantities not exceeding 10 pounds, and shall pack oleomargarine sold by them in suitable wood or paper retail packages properly marked and branded; par. 1, page 44, Regulations No. 9, amended. (T. D. 2764; Oct. 21, 1918. T. D. 2774; Nov. 19, 1918.)

All transactions involving withdrawal or sale of oleomargarine must be entered by manufacturer or wholesaler on Government record books 60 or 61, as case may be (or Forms 216 or 217, if substituted for record 60 or 61), in the order and at the time they occur, sales to wholesalers to be segregated and reported on separate pages in last part of monthly return, effective on and after July 1, 1917. (T. D. 2502; June 22, 1917.)

Shares of stock and like securities—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Brokers.

A bank which does not hold itself out to the public as engaged in negotiating purchases or sales of stocks, bonds, etc., but merely negotiates the purchase and sale thereof for depositors and other patrons, without remuneration and for their accommodation only, does not thereby incur liability to special tax as a broker. (T. D. 2782; Dec. 24, 1918.)

—— Exempt transactions.

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution nor any collateral or additional agreement or understanding inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— Memorandum of sales.

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— Rate of taxation.

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved and shall be at a rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— Records.

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— Registration.

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector, who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

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Shares of stock and like securities—Continued.

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

Stamp taxes.

Contract for sale of real estate, providing for future delivery by deed, is not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

The term "contract of sale" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes all sales or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales." (T. D. 2608; Nov. 30, 1917.)

Transfer of shares or certificates of stock in any association, company, or corporation, made by the person loaning stock to another borrowing such stock to effect a sale, and also transfer of shares or certificates of stock from a borrower returning them to lender, in fulfillment of borrower's obligation to buy in and return stock, are both subject to tax imposed by sections 800 and 807 of the act of October 3, 1917; in so-called short-sale transaction, there are four taxable sales or transfers: (1) sale of stock by person making short sale, (2) transfer from lender of stock to person making short sale, (3) purchase by borrower of stock to return to lender, (4) transfer by borrower to lender of shares to replace those borrowed. (T. D. 2685; Mar. 30, 1918.)

Warehouse receipts.

Persons selling warehouse receipts representing distilled spirits in storage are liable to special tax as they would be on account of the sale of the spirits themselves, but in view of section 3244, Revised Statutes, as amended, such liability will not attach to persons selling such certificates received as security for or in payment of a debt, provided such certificates or the spirits represented thereby are sold in one lot, or the spirits are sold at public auction in lots of not less than 20 gallons each; T. D. 1278 revoked. (T. D. 2784; Jan. 23, 1919.)

SAMPLES.

Distilled spirits.

Practice of distillers who draw samples from packages of distilled spirits after the packages have been regauged and while lying on the gauging porch awaiting arrival of tax-paid stamps, is unauthorized. (T. D. 2397; Nov. 20, 1916.)

Extracts.

When it is desired to use nonbeverage alcohol in making flavoring extract for which no specific standard or process has been prescribed by Secretary of Agriculture, manufacturer must furnish, in duplicate, data required by T. D. 2576 with respect to alcoholic medicinal compounds not conforming to U. S. P. or N. F.; samples of product will be required when doubt exists as to nonbeverage character of same, which samples will be forwarded by express, charges prepaid, to Division of chemistry, Office of the Commissioner of Internal Revenue. (T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

Narcotics.

Manufacturers of narcotics may lawfully furnish to any duly accredited special agent or customs agent of the Treasury Department, samples required in order to make analyses to establish allowance of drawback on manufactured drugs exported from this country, taking receipt of such officer therefor, which will be filed with official narcotic order forms and records. (T. D. 2487; Apr. 28, 1917.)

Wines.

Wines furnished as samples by dealers are nevertheless subject to tax under the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Articles 27 and 28 of Regulations No. 28, Supplement No. 2, require gaugers and visiting deputies to make occasional tests of wine as to alcoholic content, but re-

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Wines—Continued.

sponsibility for proper stamping of wines is placed upon wine maker or bonded dealer; samples are not to be submitted unless appeal is taken from findings of internal revenue officers or in cases where it is suspected that the wines are understamped. (T. D. 2400; Nov. 24, 1916.)

SANITARIUMS.

Alcohol for use in.

Alcohol may be withdrawn free of tax under act of May 3, 1878, as amended by act of July 8, 1916, for use in surgical operations and treatment of patients, and alcohol so withdrawn by hospitals and sanitariums may be used, even though they maintain no educational facilities; provided, however, that alcohol so withdrawn shall not be used as a beverage nor in any way for the manufacture or compounding of a beverage for use in any such institution or elsewhere; privilege of withdrawal will not be extended to any institution conducted directly or indirectly for profit or from operations of which any profit, other than fair and reasonable compensation for services performed, is derived by any stockholder, officer, or other person; withdrawals must be according to method and subject to restrictions imposed by T. D. 2496. (T. D. 2745; July 5, 1918.)

SARSAPARILLA.

Beverages.

See "Beverages."

SCALPER'S TICKETS.

Admissions tax.

Ticket brokers required to collect tax on admissions, shall, on the 1st day of April, 1918, (and if not on that date engaged in business, then within 10 days after engaging in business), and annually thereafter on the 1st day of July, file in the office of the collector of internal revenue of the district in which his place of business is located, an application for registry, setting forth certain stated information; traveling or itinerant shows; collector, if satisfied that all statements given in application are correct, will issue certificate of registration on certain form, which proprietor shall keep conspicuously posted in his place of business, or carry on his person if he has no fixed place of business. (T. D. 2681; Mar. 26, 1918.)

Ticket brokers required to keep daily records showing tickets sold for each entertainment; proceeds; cost of tickets and tax returnable; monthly return, which shall be recapitulation of daily records, required to be made in duplicate on Form 729, and to be transmitted to office of collector, with amount of tax, on or before last day of month following that for which return is made; daily record of brokers, with copies of their monthly returns, required to be kept on file for two years, in such manner as to be readily accessible to internal revenue officers. (T. D. 2681; Mar. 26, 1918.)

Where a broker purchases tickets for resale, with right to return those not sold, proprietor of entertainment held responsible for collecting tax on full price paid for actual use of tickets; independent brokers and dealers must collect and account for tax on their sales, less amount of tax on each ticket collected and accounted for by amusement enterprise; if ticket is sold for use and not for resale, at less than face value, tax is on price paid, but seller must collect tax on face value unless he can furnish satisfactory evidence that presumptive purchaser was not agent of, or acting in collusion with, the seller. (T. D. 2681; Mar. 26, 1918.)

SCHEDULES.

Income taxes.

Schedule showing graduated additional tax rates and amount of income subject thereto. (T. D. 2690, art. 20.)

Interest on certificates of indebtedness.

Schedule showing exact amount of accrued interest payable per certificate of each issue on any date from January 2, 1918, to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on United States certificates of indebtedness, receivable in payment of income and excess profits taxes, on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 15, 1918.)

Schedule showing exact amount of accrued interest payable on United States certificates of indebtedness on any day from March 15 to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

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Interest on certificates of indebtedness—Continued.

Schedule showing exact amount of accrued interest payable on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Schedule showing exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Itinerary of traveling shows, etc.

Proprietor, manager, or duly authorized officer of traveling or itinerant shows, exhibitions, or amusement enterprises, which have fixed or established headquarters, required to register with collector of district in which headquarters are located, and to file with him at the time, or as soon thereafter as possible, schedule of itinerary covering the year, season, or other period during which the circus, show, exhibition, or amusement is to operate, or if itinerary is prepared only weekly or monthly in advance, then to file schedule of such itinerary immediately upon its preparation from time to time. (T. D. 2681; Mar. 26, 1918.)

Taxable articles and occupations.

Articles and occupations subject to tax, and other sources of revenue. (T. D. 2558; Oct. 26, 1917.)

SCHOOL DISTRICTS.

Income taxes—Net income.

Taxes imposed against a corporation by authority of any school district (not including those assessed against local benefits) and paid within year for which return is made are deductible from gross income of domestic corporation; similar taxes with like exceptions assessed against and paid by foreign corporation receiving income from any source within United States are deductible from gross income received from such source, except that taxes imposed by foreign Government and paid by foreign corporations are not deductible from gross income received from sources within United States. (T. D. 2690; art. 191.)

SCIENCES.

Alcohol withdrawn for scientific purposes.

The term "chemical laboratory," as used in section 3297, Revised Statutes, includes any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol withdrawn from bond is used purely for scientific purposes. (T. D. 1971; Apr. 20, 1914. T. D. 2496; May 31, 1917.)

In order to withdraw alcohol for scientific purposes applicant must present to collector of internal revenue application to Secretary of Treasury for permit to withdraw the same; form and contents of application; evidence as to nature of institution; quantity of alcohol applied for. (T. D. 2496; May 31, 1917.)

Applicant for permit to withdraw alcohol must execute bond in duplicate, signed by himself, with two or more sureties; form; who required to sign bond; attestation and seal. (T. D. 2496; May 31, 1917.)

Storekeeper at bonded warehouse required to transmit duplicate permit to collector, who will take credit for all spirits withdrawn on the proper line of his bonded account (Form 94a) for month during which such withdrawal is made, and he will make proper entry on inside page of such account as to quantity covered by each permit and will forward each of the duplicate permits with his bonded account as vouchers for such entry; alcohol withdrawn is subject to regauge, but request for regauge on modified Form 179 must be filed. (T. D. 2496; May 31, 1917.)

Privilege of withdrawing alcohol in bond for scientific purposes applies to all institutions of learning created and constituted as such under any State or Territorial law, and to hospitals similarly created, and having connected therewith a training school for nurses or where clinical lectures are delivered. (T. D. 2496; May 31, 1917.)

Alcohol may not be used outside of the chemical laboratory, and its use in the laboratory must be such as either to secure its actual destruction or destroy its identity, and must not be sold to any person whatever; in order that alcohol may be used for bathing patients or in surgical operations, it must be first mixed with an antiseptic and in such proportions as to change its identity; formula for antiseptic purposes in general. (T. D. 2496; May 31, 1917.)

Upon receipt by the Commissioner of Internal Revenue of application to withdraw alcohol an original and duplicate permit will be issued, original to be forwarded to collector of internal revenue and duplicate to be transmitted to applicant, who

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Alcohol withdrawn for scientific purposes—Continued.

must sign receipt, which should then be sent to the distiller, who will hand it to the storekeeper of the warehouse; collector will notify storekeeper of granting of permit; duty of storekeeper. (T. D. 2496; May 31, 1917.)

For cancellation of bond or for the purpose of obtaining credit on such bond, certificate under oath, substantially in stated form, will be required of officer of institution under whose direction alcohol has been used, such certificate to be filed with collector named in the bond and by him forwarded to the Commissioner of Internal Revenue, with his approval indorsed thereon; where principal to bond is unable from good cause to furnish required proof within time specified in his bond, an extension not exceeding 12 months may be obtained upon application to Commissioner of Internal Revenue, accompanied by consent of sureties. (T. D. 2496; May 31, 1917.)

Regulations of October 26, 1917, relative to sale and use of distilled spirits for other than beverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to alcohol withdrawn for scientific purposes under section 3297, Revised Statutes. (T. D. 2559; Oct. 26, 1917.)

Distilled spirits.

Distilled spirits for nonbeverage purposes may be used only in the arts, sciences, and trades, where circumstances are such that there can be no probability that the spirits will be sold or used for beverage purposes or in the manufacture or production of any article intended for use as a beverage. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

SCIENTIFIC ORGANIZATIONS.

Capital stock tax—Exemption.

Corporation or association organized and operated exclusively for scientific purposes, no part of net income of which inures to benefit of any private stockholder or individual, is exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Income taxes—Exemption.

Corporations or associations organized and operated exclusively for scientific purposes are not as such exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized, as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Exemption from filing returns and paying income tax of corporations or associations organized and operating exclusively for scientific purposes is conditional upon such organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

SEASON TICKETS AND PASSES.

Admissions.

Tax imposed by section 700 of act of October 3, 1917, is to be collected upon price paid and at time of paying for season tickets; no refund of any part of the tax is authorized because one or more performances may be missed; in case of tickets covering period before and after November 1, 1917, tax is payable on proportion of price paid representing admissions on and after November 1, 1917, and should be collected upon first presentation of the ticket after October 31, 1917. (T. D. 2681; Mar. 26, 1918.)

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

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Admissions—Continued.

Holder of season pass required to pay tax imposed by section 700 of act of October 3, 1917, at option of proprietor when it is issued (it then to be stamped "Tax paid"), on all admissions to which pass entitles or whenever it is presented on each single admission; tax is to be paid by holder of pass; where pass is "Tax paid," no refund of tax will be allowed on account of failure to use any or all of admissions covered by it. (T. D. 2681; Mar. 26, 1918.)

The tax collected at the time of issue of a season ticket or pass must be accounted for in full in the next monthly return irrespective of any use of the ticket or pass. (T. D. 2681; Mar. 26, 1918.)

When a Chautauqua bureau presents a Chautauqua under the usual form of agreement with a local body by which latter subscribes for season tickets and receives them to resell to the public, the admissions tax is payable on (1) amount paid by local body to the bureau regardless of number of tickets not resold or not used, on (2) any excess received by local body from resale of tickets over the amounts so paid by it, and also on (3) all admissions other than by tickets so sold to the local body. (T. D. 2782; Dec. 24, 1918.)

Dues.

Golf club dues for which the member receives as one of the privileges of membership a season ticket for a municipal golf course are subject to tax without deducting part paid by club to city for the season ticket. (T. D. 2782; Dec. 24, 1918.)

Passenger transportation.

The term "commutation or season tickets," as used in section 500, subdivision (c), of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply to amounts paid for transportation of persons in case of season tickets for trips less than 30 miles. (T. D. 2676; Mar. 18, 1918.)

Season tickets sold and partially used before November 1, 1917, are not taxable if presented after that date for remainder of journey or journeys called for. (T. D. 2676; Mar. 18, 1918.)

SECRECY.

Formulas for medicinal preparations.

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of the price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer; provided that the manufacturer claims to have any private formula, secret or occult art for making or preparing them. (T. D. 2719; Art. XIX.)

Every medicinal preparation, compound, or composition embraced within one or more of the sudivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Printing on labels the directions and indications for use, dosage and other similar matter, will not alone render preparations made under a standard formula taxable, provided preparation is not held out or recommended as a proprietary preparation or as a remedy or specific; where medicinal preparations are sold under labels which do not indicate that the formula is published they will be considered to be prepared under private formulas, unless proof is submitted that the formula is not secret. (T. D. 2719; Art. XXII.)

Income tax returns.

See "Inspection."

Copies of returns on file in Commissioner's office may not be sent to any person, except corporation itself or to its duly authorized attorney; duly authorized attorney for this purpose is one possessing properly executed power of attorney in writing by corporation, which designation shall be signed by two officers of corporation and bear impress of the seal. (T. D. 2690; art. 226.)

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Income tax returns—Continued.

Disclosure by collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person not legally authorized to receive same, of any information whatever contained in or set forth by any return of annual net income made pursuant to the law, is, by the act, made a misdemeanor, and is punishable by fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, in discretion of the court, and if offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government. (T. D. 2690; art. 229.)

Proper officers of State imposing income tax are entitled as of right upon request of its governor to have access to income and profits tax returns of corporation, etc., or to abstract thereof, showing its name and income; proper officers in this connection are only those officers of the State charged with enforcement of the State income tax law and who are to use the information gained by the access only in connection with such enforcement; contents of request or application of governor, which must be in writing, signed by him under the seal of his State, and be addressed either to the Secretary of the Treasury or to the Commissioner of Internal Revenue, stated; access shall be given only in the office of the Commissioner, and the officers designated by the governor will not be permitted to name another person to examine the returns or abstracts for them, and the officers designated will be given access only to returns of those corporations, etc., organized and doing business in their State. (T. D. 2962; Jan. 7, 1920.)

Original income return or copy thereof may be furnished by Commissioner to United States attorney for use as evidence before United States grand jury or in litigation in any court, where the United States is interested in the result, or for use in preparation for such litigation, or to attorney connected with Department of Justice designated by Attorney General to handle such matters, if and when Attorney General states to Commissioner in writing that such attorney is so designated; return or copy thereof thus furnished must be limited in use to purpose for which furnished and is under no conditions to be made public, except where publicity necessarily results from such use; where original return is necessary, it shall be placed in evidence by the Commissioner for that purpose, and after being placed in evidence it shall be returned to files in office of Commissioner in Washington; original return will be furnished only in exceptional cases, and then only when it is made to appear that ends of justice may otherwise be defeated; neither the original nor a copy desired for use in litigation where United States Government is not interested and where such use might result in making public the information contained therein will be furnished, except as otherwise provided in the next succeeding paragraph. (T. D. 2962; Jan. 7, 1920.)

Copy of income return may be furnished by the Commissioner to person who made the return or to his duly constituted attorney, or if person is deceased, to his executor or administrator, or, if entity is in hands of receiver, trustee in bankruptcy, guardian, or similar legal custodian, to the receiver or other custodian upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision; "person who made the return," as herein used, refers in case of an individual return to the individual whose return is desired, and in case of return of corporation, etc., or fiduciary, to the corporation, etc., or fiduciary, a copy of whose return is desired; corporation may also designate officer or individual to whom copy made by corporation may be furnished, and upon sufficient evidence of such action and of identity of officer or individual, copy may be furnished to such person; copy of partnership return will be furnished to partners only in case all the partners join in the request therefor, and if partnership has been dissolved the members surviving may be furnished a copy if all the members surviving join in the request. (T. D. 2962; Jan. 7, 1920.)

SECURITIES.

Dealers—Tax.

Dealer in securities, for purposes of T. D. 2609, is a merchant of securities whether an individual, partnership, or corporation with an established place of business and whose principal business is the purchase of securities and their resale to customers; one who, as a merchant, buys securities and sells them to customers with a view to the gains and profits that may be derived therefrom. (T. D. 2649; Jan. 30, 1918.)

The case of Altheimer & Rawlings Investment Co. *v.* Allen holds that a corporation which did a brokerage business and bought securities for customers who paid only part of the price, paying interest on balances, corporation also paying for securities purchased only part of the price and paying interest on balances, including in return of gross income differences between interest received and interest paid,

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Dealers—Tax—Continued

made incorrect return; interest received by corporation from its customers should be included in gross income and interest paid by the corporation on said purchase is allowable as interest payable on its bonded or other indebtedness; in determining net income interest can be deducted only to an amount not exceeding the paid-up capital stock outstanding at close of the year. (T. D. 2441; Feb. 8, 1917. T. D. 2696; Apr. 1, 1918. Ct. Decs.)

A bank which does not hold itself out to the public as engaged in negotiating purchases or sales of stock, bonds, etc., but merely negotiates the purchase and sale thereof for depositors and other patrons, without remuneration and for their accommodation only, does not thereby incur liability to special tax as a broker. (T. D. 2782; Dec. 24, 1918.)

Income and excess profits taxes.

Dividends declared by corporation and paid with securities in which surplus of of corporation has been invested, regardless of character of securities, must be accounted for as dividend for income tax purposes by recipients to extent that it represents distribution of surplus accrued to corporation since March 1, 1913. (T. D. 2690; art. 4.)

Commissions paid in purchasing and selling securities are a part of the cost or selling price of the securities and not otherwise deductible; they do not constitute expense deductions. (T. D. 2690; art. 8.)

Section 30 of the act of September 8, 1916, as amended by the act of October 3, 1917, does not exempt from tax any income collected by foreign Governments from investments in the United States in stocks, bonds, or other domestic securities, which are not bona fide owned by but are loaned to such foreign Government. (T. D. 2690; art. 87.)

Corporation possessing securities can not allowably deduct any amount claimed as loss on account of shrinkage in value through fluctuation of market or otherwise; only loss to be allowed is that suffered when securities mature or are disposed of; in case of banks or other corporations subject to supervision by State or Federal authorities, and which, in obedience to orders of supervisory officers, charge off as losses amounts represented as alleged shrinkage in value of property, amounts so charged off do not constitute allowable deductions; this applies only to owners and investors and not dealers in securities, as to which see T. D. 2609. (T. D. 2690; art. 148.)

District irrigation bonds generally are a lien upon real estate affected by irrigation project, and until corporation holding such bonds has taken necessary action to protect its interest and enforce collection of such bonds, corporation will not be allowed to deduct face value or any estimated amount supposed to represent loss or shrinkage in value of such bonds; any estimated shrinkage in value does not constitute loss within meaning of Title I of the act of September 8, 1916, as amended by act of October 3, 1917; so long as value of security is uncertain or unknown loss can not definitely be ascertained and is therefore not deductible. (T. D. 2690; art. 153.)

Dealers in merchandise and dealers in securities authorized to make returns on basis of inventories taken at cost or market price, whichever is lower. (T. D. 2609; Dec. 19, 1917.) Pending decision by Supreme Court of United States as to legality of authorization of T. D. 2609, returns made upon basis of T. D. 2609 will be tentatively accepted. (T. D. 2649; Jan. 30, 1918.) Affirmed, T. D. 2744; July 11, 1918.)

Sales—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Exempt transactions.

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral

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Sales—Continued.

—— **Exempt transactions**—Continued.

or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memorandum of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

SECURITY.

See "Bonds."

Agreements with banks—Stamp tax.

Neither security agreement signed by prospective borrower of bank, empowering bank to apply any securities, money, or other property of borrower in hands of bank to satisfy debt, nor form of application for the loan is subject to stamp tax imposed by Schedule A of section 807 of act of October 3, 1917. (T. D. 2599; Dec. 3, 1917.)

Collateral.

See "Collateral Security."

SEIZURES.

See "Distraint;" "Forfeitures."

Distilled spirits.

Distilled spirits seized because of filing of incorrect return or failure to file return not willful may be released on payment of tax and compromise offer of 25 per cent; payment of tax and compromise offer of 100 per cent required in case of false return or willful failure to file return. Acceptance of such offers is in lieu of forfeiture only. (T. D. 2877; June 27, 1919.)

Evidence.

The fourth amendment of the Federal Constitution is violated if Government officers seize, without warrant, documents of defendant named in a pending indictment; evidence gained by such seizure may not be used by the Government in any way, and, therefore, refusal by defendant, after return of documents seized, to

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Evidence—Continued.

comply with court order to produce them, is not contempt of court, although the order was regularly drawn, if it was based on information gained by the illegal seizure and not upon knowledge of facts gained from an independent source. (T. D. 2984; Feb. 25, 1920. Ct. Dec.)

Release—Bonds.

In case of seizures of automobiles, horses, and other similar property, collectors instructed to refuse to accept bond under section 3459, Revised Statutes, for release unless property was seized under provisions of section 3453, Revised Statutes, only; where seizure was not made under such section, if property is appraised at $500 or less, collectors will dispose of same promptly under provisions of section 3460, unless bond for costs is given, in which event bond should be forwarded to United States attorney with request to institute libel proceedings; if value exceeds $500, property should be turned over to United States marshal and the attorney requested to institute forfeiture proceedings, no bond for costs being required; question of release of property on bond is within jurisdiction of court. (T. D. 2511; July 12, 1917.)

Shipments of liquors into "dry" territory.

Where shipment is discovered by internal-revenue officers, involving violations of both section 3449, Revised Statutes, and section 240 of the Criminal Code, seizure should be made in the same manner as though the former section only was involved, but all facts should be disclosed in any reports submitted; when only section 240 is involved, it is the duty of the officers of the Department of Justice rather than of revenue officers to see that such section is enforced, and a revenue officer who attempts to perform the official functions of officers of the Department of Justice exceeds his authority; revenue officers should act in regard to violations of section 240 as citizens rather than in their capacity as revenue officers. (T. D. 2437; Jan. 19, 1917.)

SELLING CORPORATIONS.

Manufacturers, tax on.

In case of selling corporation owning substantially all the stock of a manufacturing corporation which nominally sells all or part of its products to selling corporation, manufacturing corporation is regarded as a manufacturing agent, and taxable sales are those made by selling corporation. (T. D. 2719; Art. V.)

SHARES OF STOCK.

See "Stock."

Definition.

The term "share or shares of stock," within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes shares and certificates for shares of stock representing interests in corporations and in incorporated and unincorporated associations, as well as voting trust certificates for shares and certificates for shares or interests in shares "if, as, and when issued" and for "rights" therein. (T. D. 2608; Nov. 30, 1917.)

SHELLS.

Definition.

The term "shells," as used in Title III of the act of September 8, 1916, comprehends any receptacle used to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

SHERRY

See "Wines."

SHIPPING.

See "Transportation Tax."

SHOWS.

See "Admissions"; "Occupational Taxes."

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SIGHT DRAFTS.

Stamp taxes.

A draft might be drawn stating no time for payment which would class it as a sight draft and be accepted at 90 days which would change its nature; if negotiated or delivered before acceptance holder would be obliged to stamp thereon acceptance, in default of which both he and accepter would be liable for statutory penalty. (T. D. 2682; Mar. 26, 1918.)

Ordinary sight draft with bill of lading attached is not taxable, but draft expressed to be payable at sight "on arrival of car," or containing memorandum to hold until arrival of car, is; sight draft accompanied by instructions outside the instrument, as "Do not present until arrival of car," or some such memorandum, is not taxable. (T. D. 2682; Mar. 26, 1918.)

A sight draft accepted and paid for the drawee by the collecting bank, which holds it and charges interest until the drawee takes it up, is not taxable. (T. D. 2682; Mar. 26, 1918.)

SIGNS.

Admissions—Amount charged, tax due, and total thereof.

Persons charging taxable admissions required to keep conspicuously posted in their places of business signs accurately stating prices charged for admission, tax due on each admission, and total of admission and tax; where entertainment enterprises, finding it impracticable to handle pennies or for other reasons, have advanced their prices 5 or 10 cents, including tax in the advance, conspicuous signs must announce, "The charge for a [denomination] ticket includes the tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission." (T. D. 2681; Mar. 26, 1918.)

—— Persons liable for, and object of, tax.

By appropriate signs and by notices printed in programs for reasonable period, public should be informed that tax imposed by section 700 of the act of October 3, 1917, is required to be paid by person paying for admission, and that amount collected goes to United States Government for war purposes. (T. D. 2681; Mar. 26, 1918.)

—— Tax not charged.

No place where taxable admissions are charged will be permitted to display any sign, notice, or placard, to the effect that the war tax is not charged. (T. D. 2681; Mar. 26, 1918.)

Wineries.

Owner or occupant of winery premises producing not to exceed 1,000 gallons per year must keep conspicuously on outside of building nearest street or highway sign in plain letters and figures, of not less than 3″ in length and of corresponding width, indicating the premises and the registry number. (T. D. 2765; Oct. 21, 1918.)

SINKING FUNDS.

Income taxes.

When corporation sets aside part of its earnings to create sinking fund with which to retire indebtedness, annual additions to such fund are not allowable deduction from gross income or as or in lieu of depreciation or on any other account; earnings thus set aside are an asset and any accretion thereto must be accounted for as income; ruling will not, however, forbid deduction or reasonable allowance for depletion of natural deposits even though amount so deducted be used in whole or in part in payment of its indebtedness. (T. D. 2690; art. 166.)

Where trustees of sinking fund have invested amount of sinking fund received or any portion of it in bonds of corporation, and such corporation pays to trustees interest thereon, the corporation will be permitted to deduct such interest, provided amount thus paid, plus interest on any other outstanding indebtedness, does not exceed legal limit; interest paid to trustees, together with all other earnings on investments made by trustees of the sinking fund, must be included in gross income of corporation. (T. D. 2690; art. 189.)

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SIRUPS.

Beverages.

A "prepared sirup," within the meaning of section 313 (a) of the act of October 3, 1917, is a simple sirup with flavoring and perhaps other materials; a simple sirup which is not taxable is a preparation of sugar and water, or rock candy and water. (T. D. 2719; Art. XXIX.)

Tax imposed by section 313 (a) of the act of October 3, 1917, is based on price for which prepared sirups or extracts, if intended for use in manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places, are sold by the manufacturer; possible selling prices and corresponding tax per gallon in each case, stated. (T. D. 2719; Art. XXVIII.)

Foam, concentrates, acid solution, cocoa paste, ginger ale paste and emulsions, and ordinary household extracts like vanilla, are subject to tax imposed by section 313 (a) of act of October 3, 1917, when sold if intended for use in production of soft drinks; extracts intended for use for culinary purposes or in manufacture of ice cream, are not taxable; "Sundae dressings," used exclusively for pouring over ice cream, are not taxable; prepared sirups and extracts used by rectifiers of spirits and as bar flavors are not taxable; an extract sold to another extract or sirup manufacturer for use in production of prepared sirup which is to be sold as such, is not subject to tax, but manufacturer of prepared sirup must pay tax; no tax is imposed upon sirups or extracts, as such, used by the maker for further manufacturing purposes and not sold by him. (T. D. 2719; Art. XXX.)

The tax imposed by section 313 (b) of the act of October 3, 1917, is 1 cent for each gallon of unfermented grape juice, soft drinks, and artificial mineral waters, not carbonated, and fermented liquors containing less than one-half per cent of alcohol, sold by the manufacturer in bottles or other closed containers; tax is none the less payable because tax may have been paid on extracts or prepared sirups entering into manufacture of such soft drinks; manufacturer may be bottler or proprietor of soda fountain. (T. D. 2719; Art. XXXI.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture; if no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Preparation of fruit juice and sugar, which is not reasonably suitable for beverage purposes and is not so used, but which is used to produce a palatable beverage by being mixed or diluted with water at soda fountains, bottling establishments, and other similar places, is a prepared sirup within the meaning of section 313 (a) of the act of October 3, 1917, and was, while that act was in force, subject to tax levied upon such sirup. (T. D. 2932; Oct. 7, 1919.)

SNUFF.

Exports—Application for withdrawal.

Instructions with reference to supplying manufacturers of snuff with revised Form 550, application for withdrawal for export. (T. D. 2521; Sept. 1, 1917.)

Floor tax.

Tax-paid manufactured snuff in excess of specified quantity held for sale on October 4, 1917, as well as contents of broken packages and goods in transit on such date, required to be inventoried and returned for assessment of tax provided for by section 403 of the act of October 3, 1917; dealers and others required to pay tax must make return on Form 416C, in duplicate, under oath, on or before November 2, 1917; payment of tax required at time of filing return, but may, upon filing of bond, be extended to date not exceeding seven months from passage of act of October 3, 1917; principal office or place of business to make return where two or more stores are operated by same dealer. (T. D. 2556; Oct. 16, 1917.)

Manufacturers—Books and returns.

Instructions with reference to entries to be made in books and monthly returns on November 2, 1917, when full increased taxes became effective. (T. D. 2569; Oct. 17, 1917.)

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Manufacturers—Continued.

—— Inventories.

Instructions with reference to inventories required to be filed January 1, 1918, and verification thereof by collectors of internal revenue or their deputies; further duties of deputy collectors stated. (T. D. 2583; Nov. 17, 1917.)

Manufacturers of tobacco, snuff, cigars, and cigarettes required to make inventories in accordance with sections 3358, 3390, Revised Statutes, such inventory to be made before commencement of business on January 1, 1919; tobacco of each class, and stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco, snuff, cigars, and cigarettes, of the several classes, should be weighed separately; inventory must include unstemmed tobacco stored off bonded factory premises and also the attached and unattached stamps; tobacco material in factory required to be segregated according to classification; tobacco dust, sweepings, etc., must be inventoried as "waste"; weight and marks of each unopened package, etc., required to be listed on back of inventory form; record of quantity of tobacco used from date of inventory to date of deputy collector's visit requiredto be kept; inventory must be verified early as practicable after January 1, 1919; duties of deputy collectors enumerated. (T. D. 2777; Dec. 11, 1918.)

Inventories prepared in accordance with sections 3358 and 3390, Revised Statutes, required to be filed before commencement of business on January 1, 1920; weighing; inventory of attached and unattached stamps required; segregation of tobacco material in factory; tobacco dust, sweepings, etc., to be inventoried as "waste"; listing of weight and marks of unopened packages, etc.; verification; duties of deputy collectors. (T. D. 2955; Nov. 29, 1919.)

A corporation carrying on business as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, will be required to have the monthly reports and inventories signed and sworn to by a duly authorized officer or agent of the corporation and to file the monthly reports within the prescribed time with the collector of the district in which the factory or dealer's place of business is located. (T. D. 3073; Sept. 27, 1920.)

An officer's authority to sign and make oath to a corporation's monthly reports and inventories, unless specifically given in the charter or by-laws, must be conferred by a resolution in due course of the board of directors. In case of such resolution, a certificate thereof in duplicate, executed by the president and attested by the secretary, should be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. (T. D. 3073; Sept. 27, 1920.)

Whenever it is not possible or convenient for an officer of a corporation to sign and swear to its monthly reports and inventories as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, an agent may be authorized to execute them and may bind the corporation as fully as an officer, under the following conditions:

A resolution in due course of the board of directors should appoint and authorize the superintendent or manager of the factory or leaf establishment, identifying both the individual and the factory or leaf establishment, to execute the monthly reports and inventories required of the corporation, and provide further that the power of attorney so created shall continue in full force until written notice of the revocation thereof is given to the collector of the district thereby affected. A certificate in duplicate of such resolution, executed by the president and attested by the secretary, should then be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. Such certificate will constitute authority for the collector, until he has actual notice of the recall of the power, to accept monthly reports and inventories executed by such agent. (T. D. 3073; Sept. 27, 1920.)

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on January 1, 1921. Each manufacturer should observe carefully the following instructions:

(1) The inventory must be made before the commencement of business on January 1, 1921. After it is completed the correct totals should be immediately entered on the blank form which will be furnished to each manufacturer by the collector of the district in which his factory is located.

(2) All stamped, as well as unstamped, manufactured plug, twist, fine cut, and smoking tobacco, snuff, cigars, and cigarettes of the several classes must be sepa-

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Manufacturers—Continued.

—— **Inventories**—Continued.

rately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

(3) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form, and weighed separately.

(4) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently described to aid the deputy collector in verifying the inventory. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "waste" only, and by quasi manufacturers of tobacco under separate heads, each properly described.

(6) An accurate record of the quantity of tobacco of each class used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of tobacco of each class which was on hand on the inventory date. (T. D. 3099; Dec. 10, 1920.)

Each inventory shall be verified by a deputy collector at the earliest practicable date after January 1, 1921. Each deputy should be directed, in determing the correctness of the figures shown in the inventory, to take into account the quantity of tobacco of each different kind sold and used on the one hand and purchased on the other hand between the time of his visit and the taking of the inventory. The deputy should require any necessary amendment to be made before permitting oath to be taken and should observe the instructions in Regulations No. 8 (revised July 1, 1910), page 60, under the head of "Deficiencies found by examining officers." Any deficiencies which may be discovered should be reported immediately. (T. D. 3099; Dec. 10, 1920.)

Rates of tax.

Taxes imposed by sections 401 and 403 of the act of October 3, 1917, removed from factory or customhouse for consumption or use on and after October 4, 1917, and November 2, 1917, shown by table. (T. D. 2569; Oct. 17, 1917.)

Stamps—Cancellation.

Stamps for the new sizes of packages for manufactured snuff provided for in section 401 of act of October 3, 1917, shall be affixed and canceled in same manner as are other strip stamps for tobacco and snuff under the provisions of existing regulations No. 8, revised July 1, 1910, page 41. (T. D. 2569; Oct. 17, 1917.)

—— **Inventory and return.**

All attached and unattached stamps for payment of tax on cigars held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

—— **Orders.**

Forms of orders for stamps, revised, standardized as to size, printed in different colors, required to be used as soon as supply is forwarded to collectors and distributed by them to manufacturers. (T. D. 2411; Dec. 12, 1916.)

Instructions with reference to use by manufacturer of revised Form 173 orders for stamps for snuff. (T. D. 2604; Dec. 12, 1917.)

—— **Sales.**

Stamps for tax payment on imported snuff, to be sold only to owners, consignees, or importers, on requisition of proper customhouse officer; stamp order Forms 168, 172, 173, and 485 restricted to use of manufacturers in the United States; regulations No. 8, revised July 1, 1910, page 62, amended to provide that when snuff imported in the mails is for delivery at places other than where examined by customs officers, and are forwarded to the postmaster who notifies the addressee, furnishing him with customs Cat. No. 3493, which is forwarded to postmaster with the package, necessary stamps shall be procured from and sold by the nearest collector of internal revenue. (T. D. 2500; June 15, 1917.)

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Time when act effective.

Section 401 of the act of October 3, 1917, levying a tax upon snuff, took effect on November 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Withdrawal for use of United States—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district, and State, the number of original or statutory packages and contents of each shall be set forth in each application as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner; application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

—— Bills of lading.

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the other shall be forwarded immediately with letter of transmittal to the Commissioner. (T. D. 2982; Jan. 22, 1920.)

—— Bond for transportation and delivery.

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State, from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33 executed in duplicate, and the duplicate form to be attached to the duplicate bond; the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

—— Certificate of receipt by Government officer.

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within 30 days of date of withdrawal; where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— Collector's account; credit on bond.

The bond covering the total quantity of product requisitioned will be credited in the office of the Commissioner, to whom the collector will forward the original certificate of receipt immediately after it is received by him. (T. D. 2982; Jan. 22, 1920.)

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Withdrawal for use of United States—Continued.

—— Departmental requisition.

Whenever snuff is purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

—— Entries in manufacturer's records and reports.

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made, and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— Labeling or branding.

Each individual package of tobacco manufactures shall be labeled or branded "For the use of U. S. Government," together with number of permit and the date thereof, the letters and figures of such printing to be conspicuous, in boldface type, of not less than one-fourth of an inch in height. (T. D. 2982; Jan. 22, 1920.)

—— Permit.

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else request should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax, and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

SOAP.

Denatured alcohol.

Alcohol denatured according to stated formula may be used in the manufacture of soap liniment (U. S. P.), chloroform liniment (U. S. P.), liniment of soft soap, and green soap when manufactured in accordance with standards of United States Pharmacopoeia with exception that products will contain camphor and rosemary; denaturant may be used only in central denaturing and distilling plant of industrial character as established under subsection 2, of paragraph N, of section 4, of the act of October 3, 1913, and supplement No. 2 to Regulations No. 30; samples of liniment of soft soap and green soap required to be submitted together with formula, before bond is approved; permission for use of special denaturants must be obtained. (T. D. 2465; Mar. 24, 1917.)

Formula 3A, for special denaturation of alcohol for use in the manufacture of transparent soap, modified. (T. D. 2820; Apr. 10, 1919.)

Excise taxes.

The tax imposed by section 600 (g) of the act of October 3, 1917, is 2 per cent of the price for which soaps are sold by the manufacturer; soaps advertised or held out as suitable for toilet purposes are taxable; kitchen soap powders and other article. ordinarily used for household and not for toilet purposes are not subject to tax. (T. D. 2719; Art. XVIII.)

A soap powder chiefly designed for laundry purposes and sold by the manufacturer in bulk to laundries and also sold for retail distribution to the public in packages bearing directions for use as a hair shampoo, for which it is to a small extent actually used, is subject to excise tax upon the sales in packages, but not upon the sales in bulk. (T. D. 2785; Jan. 23, 1919.)

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Excise taxes—Continued.

On the sale, for a lump price, of a fountain shaving brush with a filled shaving cream cartridge which is separate and replaceable, the excise tax is only upon the price of the filled cartridge as separately determined, namely, the established retail price of the filled cartridges sold separately. (T. D. 2782; Dec. 24, 1918.)

SOCIAL CLUBS.

Capital stock tax—Exemption.

Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of net income of which inures to benefit of any private stockholder or member, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Dues—Definition.

Any organization which maintains quarters or arranges periodical dinners or meetings for purpose of affording its members opportunity of congregating for social intercourse, is a social club within the meaning of section 701 of the act of October 3, 1917, unless its social features are subordinated and merely incidental to the furtherance of business or other special interests; Commissioner of Internal Revenue shall determine whether club or organization comes within words "social, athletic, or sporting," upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

Those social facilities afforded by a commercial club which are kept open freely to the public and not limited to members are not sufficient to constitute the club a social club for purposes of the dues tax. (T. D. 2782; Dec. 24, 1918.)

—— Fraternal orders.

Dues or fees paid to fraternal orders not falling within the express exemption of section 701 of the act of October 3, 1917, are not subject to the tax imposed by that section, if the purposes and practices of the order to which they are paid are religious, benevolent, or educational, and any social activities of the order are incidental and subordinate; where the purpose or practices of any fraternal order are primarily social in character, dues or fees paid to it are subject to the tax. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Exemptions.

Social clubs are not, as such, exempt from tax; exemption is conditional on filing with collector affidavit setting out character and purpose of organization, and showing that no part of any income inures to benefit of any private stockholder or individual, and that such income is used exclusively to promote purposes for which organized as indicated in particular paragraph under which exemption is claimed. (T. D. 2690; art. 67.)

Social clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, are exempt from tax, provided no part of any net income inures to benefit of any private stockholder or individual; this exemption reaches practically all social and recreation clubs supported by membership fees, dues and assessments; if a club, by reason of comprehensive powers granted in its charter, engages in any business for profit, it will be held that such club is not a social club, it thus becoming a business or commercial enterprise, and any profit realized is subject to tax. (T. D. 2690; art. 72.)

Exemption from filing returns and paying income tax of pleasure and recreation clubs is conditional upon such an organization filing affidavit showing character and purpose of organization, source of income and disposition of same, whether or not any of its income is credited to surplus or inures to benefit of any private stockholder or individual, to which affidavit should be attached copy of charter or articles of incorporation and by-laws; where collector is in doubt as to taxable status of organization, upon receipt of affidavit, etc., he will refer affidavit and accompanying papers to Commissioner of Internal Revenue for decision; if it is held that corporation itself is exempt from income and excess-profits taxes it is not, however, exempt from the withholding requirements nor from furnishing information in accordance with provisions of act of October 3, 1917. (T. D. 2693; Apr. 8, 1918.)

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SOFT DRINKS.

Apple cider.

Sweet apple cider is taxed under section 313 (b) of act of October 3, 1917, if it contains less than one-half per cent of alcohol and no added sugar. (T. D. 2719; Art. XXXI.)

Carbonated beverages.

Carbonated fermented liquors containing less than one-half per cent of alcohol are to be classed as carbonated beverages and not as fermented liquors within meaning of section 313 (b) of the act of October 3, 1917, and are accordingly not directly taxed unless manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating them. (T. D. 2719; Art. XXXI.)

The tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of carbonated waters and beverages manufactured and sold by the manufacturer of the carbonic acid gas used in carbonating same; tax attaches when person who (a) manufactures and (b) sells such waters and beverages is also (c) the manufacturer, producer, or importer of the carbonic acid gas used in their manufacture; soda fountain proprietor manufacturing his own carbonic acid gas must pay tax on carbonated drinks dispensed at such fountain; carbonated waters or beverages are not taxable when manufacturer buys his carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Carbonic acid gas.

Tax imposed by section 315 of the act of October 3, 1917, is 5 cents for each pound of carbonic acid gas in drums or containers sold by manufacturer, if intended for use in the manufacture or production of carbonated water or drinks, including fermented liquors containing less than one-half per cent of alcohol; carbonic acid gas used in drawing beer from containers or in operation of refrigerating plants, or in preserving food products, or in manufacture of beverages containing one-half per cent or more of alcohol, is not subject to the tax; in all cases of sales of carbonic acid gas for use other than in the manufacture of carbonated water or other drinks, manufacturer must prominently stamp on or affix to container a warning, as follows: "Federal tax not paid. Unlawful to use in the manufacture of beverages." (T. D. 2719; Art. XXXV.)

Tax imposed by section 315 of the act of October 3, 1917, on carbonic acid gas is to be paid to manufacturer by producer of such gas at the time of sale, and former must collect amount of tax and make monthly returns under oath in duplicate on Form 726 and pay taxes so collected to collector of district in which his principal office or place of business is located; returns are to be rendered and tax paid on or before last day of each month, covering transactions of preceding month, first return to cover all transactions since October 3, 1917. (T. D. 2719; Art. XXXVI.)

Computation of tax.

In computing tax a fractional part of a cent should be disregarded unless it amounts to one-half cent or more, in which case it should be increased to a full cent. (T. D. 2719; Art. XXXIX.)

Definition.

A "soft drink" within the meaning of section 313 (a) of the act of October 3, 1917, is a nonintoxicating beverage containing less than one-half per cent of alcohol. (T. D. 2719; Art. XXIX.)

Exports.

Taxes imposed by sections 313 and 315 of the act of October 3, 1917, do not apply to articles sold in foreign commerce by any of the methods outlined by manufacturer, producer or importer located in one of the several States of the United States; taxes apply, however, to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its island or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Articles may be normally exported in several ways—(1) they may be shipped by the manufacturer to agent in foreign country and after reaching there may be sold by the agent; (2) they may be shipped by manufacturer to foreign purchaser

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Exports—Continued.

to fill orders received by agent in foreign country; (3) they may be shipped by manufacturer to foreign purchaser to fill orders received by manufacturer in United States; (4) they may be shipped by manufacturer to foreign purchaser to fill orders solicited by mail and received by mail from foreign purchaser. (T. D. 2739; June 24, 1918.)

Extracts and sirups.

Tax imposed by section 313 (a) of the act of October 3, 1917, is based on price for which prepared sirups or extracts, if intended for use in manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places, are sold by the manufacturer; possible selling prices and corresponding tax per gallon in each case stated. (T. D. 2719; Art. XXVIII.)

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

An "extract" is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

A "prepared sirup" is a simple sirup with flavoring and perhaps other materials; a simple sirup, which is not taxable, is a preparation of sugar and water or rock candy and water. (T. D. 2719; Art. XXIX.)

Foam, concentrates, acid solution, cocoa paste, ginger ale paste and emulsions, and ordinary household extracts like vanila, are subject to tax imposed by section 313 (a) of act of October 3, 1917, when sold if intended for use in production of soft drinks; extracts intended for use for culinary purposes or in manufacture of ice cream are not taxable; "sundae dressings," used exclusively for pouring over ice cream, are not taxable; prepared sirups and extracts used by rectifiers of spirits and as bar flavors are not taxable; an extract sold to another extract or sirup manufacturer for use in production of prepared sirup which is to be sold as such, is not subject to tax, but manufacturer of prepared sirup must pay tax; no tax is imposed upon sirups or extracts as such used by the maker for further manufacturing purposes and not sold by him. (T. D. 2719; Art. XXX.)

Manufacturers of flavoring extracts who do not pay special tax must comply with standards prescribed by Secretary of Agriculture; if no standard has been prescribed, liability to special tax will be regarded as incurred on account of manufacture of flavoring extracts, as well as of essences, soft drinks, sirups, etc., if finished product contains more alcohol than is necessary to cut the oils or extract the desired active principles and hold them in solution. (T. D. 2760; Oct. 9, 1918.)

Preparation of fruit juice and sugar, which is not reasonably suitable for beverage purposes and is not so used, but which is used to produce a palatable beverage by being mixed or diluted with water at soda fountains, bottling establishments, and other similar places, is a prepared sirup within the meaning of section 313(a) of the act of October 3, 1917, and was, while that act was in force, subject to tax levied upon such sirup. (T. D. 2932; Oct. 7, 1919.)

Ginger ale.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of ginger ale manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells ginger ale is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such ale is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Inspection of books.

Books of every person liable to tax imposed by section 313 of the act of October 3, 1917, shall be open at all times for inspection by examining internal-revenue officers. (T. D. 2719; Art. XXXIV.)

Mineral waters.

Tax imposed by section 313 (c) of act of October 3, 1917, is 1 cent for each gallon of mineral waters or table waters sold by the producer, bottler, or importer in bottles or other closed containers, at over 10 cents per gallon; a mineral water sold just as it comes from the ground, except for filtration, is subject to the tax; distilled waters, aerated waters, and artesian well waters sold for drinking purposes are subject to the tax; a "bottler" is the producer or any person who puts a liquid in bottles or other closed containers and sells it. (T. D. 2719; Art. XXXIII.)

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"Other similar places."

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

Payment of tax.

The maufacturer, producer, bottler, or importer of any of the beverages enumerated must pay taxes imposed to collector for distruct in which his principal place of of business is located; tax to be paid on or before last day of each month covering transactions of preceding month; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on gross price, may be adjusted in return for month in which price is finally determined; itinerant manufacturer should pay tax to collector of district where sales are made. (T. D. 2719; Art. XXXIV.)

Tax imposed by section 315 of the act of October 3, 1917, on carbonic acid gas, is to be paid to manufacturer by producer of such gas at time of sale, and former must collect amount of tax and pay same to collector of district in which his principal office or place of business is located; tax is to be paid on or before last day of each month, covering transactions of preceding month. (T. D. 2719; Art. XXXVI.)

The term "dealer" does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

A State or any political subdivision thereof buying or leasing an article for its own use is not a dealer. (T. D. 2719; Art. XXXVII.)

Where manufacturer has, prior to May 9, 1917, made bona fide contract with dealer for sale after tax takes effect of any article upon which sales tax is imposed, and such contract does not permit adding of whole of such tax to amount to be paid under such contract, dealer shall pay so much as is not permitted to be added to contract price. (T. D. 2719; Art. XXXVII.)

A foreign Government buying or leasing an article for its own use is not a dealer. (T. D. 2719, Art. XXXVII.)

Section 1007 of the act of October 3, 1917, permits an adjustment of tax between manufacturer and dealer, but it does not affect the liablity of the manufacturer to return and pay tax to the Government. (T. D. 2719; Art. XXXVII.)

Taxes payable by dealer must be paid to manufacturer at time sale or lease is consummated, and such manufacturer shall collect amount of tax from the dealer and pay same to collector of district in which his principal office or place of business is located. (T. D. 2719; Art. XXXVIII.)

Penalties.

In addition to penalties provided by section 1004 of the act of October 3, 1917, other punishment for failure to comply with law and regulations is prescribed by section 3176 of the Revised Statutes, as amended, and by other sections of the internal revenue laws. (T. D. 2719; Art. XL.)

Pop.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of pop manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells pop is also manufacturer, producer, or importer of carbonic acid gas in its manufacture; such pop is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Returns.

Each manufacturer, producer, bottler, or importer of beverages enumerated, required to make monthly returns under oath, in duplicate, for district in which his principal place of business is located; returns to be made on Form 726, and to be rendered on or before last day of each month covering transactions of preceding month, first return to cover all transactions since October 3, 1917; where articles are sold over period of time under agreement for quantity rebate, tax, if originally computed on gross price, may be adjusted in return for month in which price is finally determined; branch houses should in general make reports to parent house which is liable to make monthly returns of sales of branch houses; itinerant manufacturer should make return to collector of district where sales are made. (T. D. 2719; Art. XXXIV.)

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Returns—Continued.

Manufacturer of carbonic acid gas must make monthly returns under oath, in duplicate, on Form 726; such returns to be rendered on or before last day of each month, covering transactions of preceding month; first return to cover all transactions since October 3, 1917. (T. D. 2719; Art. XXXVI.)

Manufacturer who has collected amount of tax from dealer required to make monthly returns under oath in duplicate on Form 728 or Form 726. (T. D. 2719; Art. XXXVIII.)

Root beer.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of root beer manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells root beer is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such root beer is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Sarsaparilla.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of sarsaparilla manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; tax attaches when person who manufactures and sells sarsaparilla is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such sarsaparilla is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719; Art. XXXII.)

Soda water.

Tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of soda water manufactured and sold by manufacturer of carbonic acid gas used in carbonating same; attaches when person who manufactures and sells soda water is also manufacturer, producer, or importer of carbonic acid gas used in its manufacture; such soda water is not taxable when manufacturer buys his own carbonic acid gas and pays tax of 5 cents per pound. (T. D. 1719; Art. XXXII.)

Uncarbonated drinks.

The tax imposed by section 313 (b) of the act of October 3, 1917, is 1 cent for each gallon of unfermented grape juice, soft drinks, and artificial mineral waters, not carbonated, and fermented liquors containing less than one-half per cent of alcohol, sold by the manufacturer in bottles or other closed containers; tax is none the less payable because tax may have been paid on extracts or prepared sirups entering into manufacture of soft drinks; manufacturer may be bottler or proprietor of soda fountain. (T. D. 2719; Art. XXXI.)

Bottled noncarbonated fruit juices, somewhat concentrated, when reasonably suitable for beverage purposes and so used only in a diluted form, are not of themselves soft drinks and are not subject to tax imposed on such drinks by act of October 3, 1917. (T. D. 2932; Oct. 7, 1919.)

Tax imposed by section 313 of act of October 3, 1917, applies to bottled noncarbonated fruit juices, although somewhat concentrated, if as bottled they are reasonably suitable for use as beverages and are so used without addition of water. (T. D. 2932; Oct. 7, 1919.)

SOLDIERS.

See "Army and Navy."

SOURCE OF INCOME.

Reports.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

SPANISH INFLUENZA.

Narcotics—Refilling prescriptions.

Article 11 of Regulations No. 35, prohibiting refilling of narcotic prescriptions, modified, so that prescriptions calling for morphine, codeine, or heroin, which are written by registered practitioners for patients suffering from Spanish influenza and any pulmonary or bronchial affections, may be refilled, provided that at time of issuance by physicians instructions are noted in body of such prescriptions, "Repeat if necessary," and druggist filling and refilling same shall note thereon each and every date upon which such prescription is refilled. (T. D. 2766; Oct. 22, 1918.)

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SPARKLING WINES.

See "Wines."

SPECIAL TAXES.

Particular taxes.

See specific heads.

SPECIFICS FOR DISEASE.

See "Medicinal Preparations."

SPENDING MONEY.

Income taxes—Deductions.

So-called "spending or treating money" actually advanced by corporations to their traveling salesmen to be used by them as part of expense incident to selling product is allowable deduction, but deduction is conditioned upon satisfactory showing that all allowance claimed was actually expended for and was an ordinary and usual expense incurred in selling the product or merchandise of the corporation. (T. D. 2690; art. 133.)

SPIRITS.

See "Distilled Spirits"; "Rectified Spirits."

SPORTING CLUBS.

Definition.

Athletic and sporting clubs include boating, tennis, golf, boxing, canoe, fishing, and hunting clubs and any organizations for practice or promotion of athletics or sports; Commissioner of Internal Revenue shall determine whether a club or organization is an athletic or sporting club within meaning of section 701 of act of October 3, 1917, upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

SPORTING GOODS.

Excise taxes.

Tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which tennis rackets, baseball bats, and other sporting goods therein enumerated are sold by the manufacturer; sleds, snowshoes, skis, and skates are not taxed; parts of sporting good sand accessories not enumerated are not taxed if sold separately; heads and shafts of golf clubs are not taxed until combined and sold as complete clubs; balls of all kinds are taxable, including balls for putting the shot. (T. D. 2719; Art. XVII.)

STAMPS AND STAMP TAXES.

Alcohol.

Each tank or tank car will be regarded as an original package, and an export stamp, to be procured by the shipper, will be affixed to each such tank or tank car. T. D. 2368; Sept. 11, 1916.)

Steel drums and packages, without wooden heads or lead plates, may be used as containers for denatured alcohol, provided that in case of specially denatured alcohol one end of each such package is painted yellow, upon which painted end required marks and brands shall be stenciled and stamps affixed; stamps required to be protected with coating of shellac or varnish impervious to water; packages intended to contain completely denatured alcohol are to be painted light-green color; articles 36 and 37 of Regulations No. 30 modified. (T. D. 2824; Apr. 22, 1919.)

Alien Property Custodian—Conveyances by and to.

Conveyance by Alien Property Custodian of realty sold by him under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

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Alien Property Custodian—Conveyances by and to—Continued.

Transfer to Alien Property Custodian of shares or certificates of stock in compliance with demand made by him under the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Conveyance of realty to Alien Property Custodian in compliance with demand made by him under trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Sale by Alien Property Custodian of shares or certificates of stock, under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, his agreement so to sell, and his transfer of legal title to certificates or shares so sold are not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Aliens—Declarations of intention to become citizens.

Declarations of intention of aliens to become citizens of United States, whether originals or duplicates, are not taxable under act October 22, 1914; certified copy of declaration for personal use and benefit of person demanding same is taxable in amount of 10 cents, stamp to be furnished by person applying therefor; duplicate copies of declarations, to be furnished by clerk of court to Department of Labor, are not taxable. (T. D. 2329; April 29, 1916.)

Articles of incorporation.

Articles of incorporation are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Assignment of insurance policy.

No stamp tax is imposed upon power of attorney contained in transfer by assignment of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in the assignee. (T. D. 2599; Dec. 3, 1917.)

Bankers' acceptances.

The rule that the stamp tax on drafts and checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to bankers' acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

Bills of exchange.

The rule that the stamp tax on drafts and checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to ordinary bills of exchange. (T. D. 2682; Mar. 26, 1918.)

Bonds.

Bonds given under sections 3459 and 3460, Revised Statutes, and forwarded to United States attorney in connection with seizures of goods for violation of internal revenue laws, are exempt from stamp tax, as being required in legal proceedings. (T. D. 2328; Apr. 29, 1916.)

Bonds given to a State, township, county, or village, covering contracts for governmental purposes or the protection of the State, township, county, village, or municipality are free from stamp tax. (T. D. 2599; Dec. 3, 1917.)

Bonds given by officials of a State, township, county, or village for the faithful performance of duties are not subject to stamp tax. (T. D. 2624; Dec. 14, 1917.)

Indemnity or surety bonds given by trustees in bankruptcy for purpose of qualifying as such are bonds required in legal proceedings, and therefore exempt from taxation under Schedule A, act of October 3, 1917. (T. D. 2647; Feb. 2, 1918.)

Instrument under seal conditioned in penal amount for payment of sum of money, such as often accompanies mortgages, is bond within meaning of Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

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Bonds—Continued.

Instruments containing essential features of promissory note but issued by corporations in numbers, under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in case of bearer bonds, for authentication by trustee and sometimes for redemption before maturity, or similar provisions, are bonds within meaning of Schedule A of Title VIII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

Stamp tax imposed on indemnity and surety bonds by paragraph 2 of Schedule A, Title VIII, act of October 3, 1917, applies to indemnity bonds made to the Government to secure issuance of duplicate checks for allotment and allowance or other benefits under the act of October 6, 1917. (T. D. 2795; Feb. 26, 1919.)

Premiums on indemnity or surety bonds executed prior to December 1, 1917, are not the subject of stamp tax when premiums due and payable subsequent to December 1, 1917, are not essential to continuance in force of such bonds; where bonds issued prior to December 1, 1917, are continued in force after December 1, 1917, by the execution of continuation certificates the tax applies to the premium charged for the issuance of such certificates. (T. D. 2782; Dec. 24, 1918.)

Bonds of a private corporation, delivered by it to the United States Housing Corporation as collateral security for a loan to aid the borrower in performing its contract with the United States Housing Corporation, are subject to stamp tax. (T. D. 2782; Dec. 24, 1918.)

Capital stock—Issue.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of certificates representing stock never before issued, no matter when authorized. (T. D. 2752; Aug. 14, 1918.)

Where corporation issues preferred stock in place of common, or one kind of preferred stock in place of another kind of preferred stock, or stock without par value in place of stock with par value, tax imposed by act October 3, 1917, on issue of capital stock applies, even though total outstanding stock is not thereby increased. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock applies to issue of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York Banking Law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York Stock Corporation Law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

—— Sales or transfers.

Tax imposed by act October 3, 1917, on transfer of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

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Capital stock—Continued.

—— **Sales or transfers**—Continued.

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock, prior to exercise of the right, and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock, does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock, applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting-trust certificates, to transfer of shares in so-called Massachusetts trusts and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of stock, does not attach to exchange of stock certificates of merged corporation for stock certificates of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Certificates of deposit.

Certificates of deposit are not taxed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

Certificates of indebtedness.

A certificate of indebtedness is ordinarily any instrument acknowledging liability for payment of money not in recognized form of promissory note or bill of exchange. (T. D. 2713; May 14, 1918.)

Charters, application for.

Applications for issuance of corporate charters are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Checks.

The stamp tax on checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand. (T. D. 2682; Mar. 26, 1918.)

Cocktails.

Cocktails prepared on premises where they are consumed and not exposed for sale need not be labeled or stamped. (T. D. 2387; Oct. 30, 1916.)

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Contracts.

Contracts for the performance of services are not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Contract for sale of real estate, making provision for future delivery by deed, is not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Stamp tax does not apply to contract or agreement by corporation to issue stock. (T. D. 2599; Dec. 3, 1917.)

Cordials—Bar bottles.

Jug of cordial which retailer keeps beneath his counter, not exposed to view, and from which he fills bar bottles, should have proper stamps affixed at each refilling for use and sale, but any bar bottles filled therefrom need not be stamped. (T. D. 2352; July 27, 1916.)

Cotton futures.

Contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

Date act effective.

Title VIII, Schedule A, act of October 3, 1917, effective on and after December 1, 1917. (T. D. 2543; Oct. 19, 1917.)

Debentures.

The term "debenture" ordinarily, although not necessarily, refers to an unsecured bond. (T. D. 2713; May 14, 1918.)

Deeds.

The tax stamp of face value corresponding with amount representing vendor's equity conveyed, should be attached on instrument conveying real estate; where exchange of equal equities in real estate is made between two persons, tax stamps should be attached to each of the two deeds, corresponding with amount of each equity exchanged; in determining amount of incumbrance upon realty being transferred no consideration is to be given to new incumbrances placed upon same at time of, or after, the sale; only incumbrances which rest on the property before sale and which are not removed by the sale are to be considered. (T. D. 2599; Dec. 3, 1917.)

Delivery of stamps to taxpayer.

Internal revenue stamps should be delivered by collectors directly to taxpayer or his representative, except only in cases where law or regulations expressly provide otherwise; stamps should not be delivered to a gauging officer or other person employed in or connected with the Internal-Revenue Service; where applicant requests that stamps be forwarded by mail or express, collectors absolved from responsibility upon complying with shipping instructions; instruction is applicable to deliveries of stamps by stamp deputies. (T. D. 2504; June 22, 1917.)

Distilled spirits.

Instruction with reference to omission of stamps from head of package and references thereto from marks; canceling stencil of gauging officer to be applied to head. (T. D. 2548, 2560; Oct. 4, 1917.)

Metal packages for containing nonbeverage distilled spirits for domestic use are not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided that marks are stenciled on heads by use of permanent stenciling material. (T. D. 2894; July 21, 1919.)

Metal packages for containing distilled spirits for export not required to be equipped with wooden surfaces for receiving the marks, brands, and stamps, provided stamps are securely attached to metal head by impervious paste and protected by coating of varnish, and provided the required marks are stenciled on the heads by use of permanent stenciling material. (T. D. 2822; Apr. 19, 1919.)

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Drafts.

Ordinary sight draft with bill of lading attached is not taxable, but draft expressed to be payable at sight "on arrival of car," or containing memorandum to hold until arrival of car, is; sight draft accompanied by instructions outside the instrument, as "Do not present until arrival of car," or some such memorandum, is not taxable. (T. D. 2682; Mar. 26, 1918.)

The rule that a taxable draft or check becomes subject to the tax imposed by Schedule A, of Title VIII, of the act of October 3, 1917, if delivered within the territorial jurisdiction of the United States, means that the tax does not attach to a draft drawn and accepted here, but delivered abroad, whether before or after acceptance, but does attach to a draft delivered here, whether before or after acceptance, although drawn and accepted abroad; in general, a draft sent through the mail is delivered when and where deposited in the mail addressed to the payee or the indorsee from the drawer. (T. D. 2682; Mar. 26, 1918.)

If a draft drawn abroad, on a foreign drawee, with a foreign payee, passes through a bank here in the course of collection, no tax is payable unless it should be delivered by an agent of the drawer to an agent of the payee within the United States. (T. D. 2682; Mar. 26, 1918.)

Because of the constitutional restriction that no tax or duty shall be laid on articles exported from any State, drafts with bills of lading attached covering goods in course of exportation are not subject to the tax. (T. D. 2682; Mar. 26, 1918.)

A sight draft accepted and paid for the drawee by the collecting bank, which holds it and charges interest until the drawee takes it up, is not taxable. (T. D. 2682; Mar. 26, 1918.)

The stamp tax on drafts imposed by Schedule A, of Title VIII, of the act of October 3, 1917, attaches to drafts at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand. (T. D. 2682; Mar. 26, 1918.)

The general rule that a taxable draft becomes subject to the tax concurrently with its delivery means that the tax attaches, not when it is signed by the drawer or presented to the drawee for acceptance, or accepted by him, but when it is delivered to the payee, if drawn on a third person, or negotiated by the drawer, if drawn to his order, whether such delivery or negotiation takes place before or after acceptance; if draft was drawn and accepted before passage of act of October 3, 1917, but not delivered or negotiated until afterwards, tax is payable; if draft is presented to drawee for acceptance and discounted by him, stamps must be first affixed by drawer. (T. D. 2682; Mar. 26, 1918.)

Payee or indorsee from drawer must see to it that drawer pays tax before delivery; the word "accept" is used in section 802 of the act in the general sense of "receive," not in the special sense peculiar to drafts; no drawee accepting an unstamped, undelivered draft would violate the law, but if the draft has already become taxable because of a prior delivery, acceptor must be sure that stamps are affixed. (T. D. 2682; Mar. 26, 1918.)

A draft might be drawn stating no time for payment, which would class it as a sight draft, and be accepted at 90 days which would change its nature; if negotiated or delivered before acceptance holder would be obliged to stamp thereon acceptance in default of which both he and acceptor would be liable for statutory penalty. (T. D. 2682; Mar. 26, 1918.)

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and although time drafts covering shipments to the Virgin Islands, the Philippine Islands and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

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Exchange of property.

Where exchange of equal equities in real estate is made, tax stamp should be attached to each of the two deeds corresponding with the amount of each equity exchanged. (T. D. 2599; Dec. 3, 1917.)

Fermented liquors.

Form 7, as revised, required to be used to exclusion of all former editions on and after July 1, 1917, at which date all forms of former edition required to be destroyed; revised Form 7 required to be filed in check-size drawers behind guide cards bearing name of each brewer, forming original record of orders for stamps, and taking place of record 19; two sets of guides to be used, providing current and closed file. (T. D. 2471; Apr. 2, 1917.)

Income taxes—Deduction of stamp taxes.

Stamp taxes imposed by internal revenue laws and paid to collectors, are deductible as taxes imposed under authority of United States, provided they are not added to and made a part of the cost of articles of merchandise, with respect to which they are paid, in which case they will be reflected in cost of merchandise and can not be separately deducted. (T. D. 2690; art. 195.)

Incumbrances.

In determining the amount of incumbrances on real estate being transferred, no consideration is to be given to new incumbrances placed upon same at the time of sale; only incumbrances which rested upon the property before the sale and which were not removed by the sale are to be deducted from the consideration in computing the tax. (T. D. 2599; Dec. 3, 1917.)

Insurance.

Policy-loan and premium extension agreements are not promissory notes as contemplated by the act of October 3, 1917, and therefore are not liable to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Policies of guaranty and fidelity insurance, including policies guaranteeing titles to real estate and mortgage guaranty policies, are subject to stamp tax on bonds imposed by subdivision 2 of Schedule A, of Title VIII, of the act of October 3, 1917, and not to the tax on insurance imposed by section 504 (c) of that act. (T. D. 2704; Apr. 23, 1918.)

Merely incidental profit earned by way of interest on its invested safety funds or on its bank balance does not change purely mutual character of company or indicate that its business, though thus earning a profit, is "carried on for profit," so as to require the stamping of policies under act October 22, 1914. (T. D. 2743; July 2, 1918. Ct. Dec.)

Purely cooperative or mutual fire insurance companies or associations carried on by members thereof solely for protection of their own property and not for profit, life insurance, personal accident insurance, health insurance, workmen's compensation insurance, carried on by members solely for their own protection and not for profit, represent the only insurance exempt under act October 22, 1914; hail insurance does not fall within such exemption. (T. D. 2318; Apr. 5, 1916.)

Leases.

Tax stamps are not required to be attached to leases. (T. D. 2599; Dec. 3, 1917.)

Loans.

Policy-loan and premium-extension agreements are not promissory notes as contemplated by the act of October 3, 1917, and therefore are not liable to stamp tax; neither security agreements signed by prospective borrower of bank, empowering bank to apply any securities, money, or other property of the prospective borrower in the hands of the bank to satisfy the debt, nor the form of application for the loan, is subject to the stamp tax. (T. D. 2599; Dec. 3, 1917.)

Mixed flour—Cancellation of stamps.

Tax-paid stamps on mixed flour may be canceled by perforation by manufacturer at his option, provided factory number, district, and State, and name of person by whom or for whom canceled, or suitable abbreviation thereof, together with date affixed and canceled, are shown by this means, and letters or numerals employed in perforation are plain and legible. (T. D. 2761; Oct. 10, 1918.)

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Naturalization certificates.

Certificates of naturalization or duplicates thereof not subject to tax under act of October 22, 1914; certified copy of certificate for personal use and benefit of person demanding same is taxable in amount of 10 cents, stamp to be furnished by person applying for certificate; duplicate copies of certificates, to be furnished by clerk of court to Department of Labor, are not taxable. (T. D. 2329; Apr. 29, 1916.)

Official bonds.

Bonds given by officials of a State, township, county, or village for the faithful performance of duties are not subject to stamp tax. (T. D. 2624; Dec. 14, 1917.)

Oleomargarine.

Manufacturers permitted to use as original containers for packing oleomargarine paper or fiber boxes, provided boxes are durable and of substantial character; provisions of existing regulations governing marking and branding and affixing and canceling of tax-paid stamps declared applicable to original packages of paper or fiber, except that such stamps may be affixed by paste or glue, without addition of tacks, staples, or brads, and without using shellac or other waterproofing material to cover the stamps; such original containers to be of such texture as will meet requirements for transportation of common carriers under existing classifications; manufacturers and wholesalers permitted to sell only in original packages, and retailers must sell only from original stamped package in quantities not exceeding 10 pounds and shall pack oleomargarine sold by them in suitable wood or paper retail packages properly marked and branded; par. 1, page 44, Regulations No. 9, amended. (T. D. 2764; Oct. 21, 1918. T. D. 2774; Nov. 19, 1918.)

Parcel-post packages.

Parcel-post packages mailed in this country to Porto Rico and such packages mailed in Porto Rico to other points therein are not subject to stamp tax. T. D. 2599; Dec. 3, 1917.)

Passage tickets.

Passage tickets issued to United States Government and foreign Government officials, employees, and military and naval forces, as well as officials of States and their political subdivisions, traveling in course of duty on vessels operated privately or by any Government, are not subject to stamp tax imposed by subdivision 10 of Schedule A, section 807, of act of October 3, 1917; passage tickets issued to private individuals traveling on vessels operated privately or by any Government are taxable. (T. D. 2676; Mar. 18, 1918.)

Stamp tax provided for by subdivision 10 of Schedule A, section 807 of act of October 3, 1917, is imposed on cost of a one-way or round-trip ticket for each passenger sold or issued in United States for passage by any vessel from port in United States, Canada, or Mexico, to port or place not in United States, Canada, or Mexico, provided cost of vessel's proportion exceeds $10; if passage be paid on through, one-way, or round-trip ticket, involving transportation partly by rail and partly by water, tax applies to that proportion of amount paid which accrues to vessel; table showing vessel's proportion of selling price of each ticket. (T. D. 2676; Mar. 18, 1918.)

Taxes on passage tickets must be paid in adhesive internal-revenue stamps, to be furnished by purchasers; such stamps must be affixed to the portion of the ticket or on the order, covering the vessel passage, and "the person, corporation, partnership, or association using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used." (T. D. 2676; Mar. 18, 1918.)

Passage tickets sold in United States from Hongkong to Vancouver, not sold as part of round-trip or through ticket from a port in the United States, Canada, or Mexico, are not subject to stamp tax imposed by section 807, Schedule A, paragraph 10, act of October 3, 1917. (T. D. 2795; Feb. 26, 1919.)

Playing cards.

Manufacturers and importers of playing cards required to render sworn inventory, in duplicate, on or before October 31, 1917, showing number of packs of cards and number of stamps; on October 31, 1917, or 10 days thereafter, return covering period October 4 to 31 required, which return must be rendered for each subsequent month on last day thereof, or on or before 10th day of succeeding month, until supply of stamps at old rate is exhausted; verification of inventories and returns. (T. D. 2538; Oct. 10, 1917.)

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Playing cards—Continued.

Additional tax imposed by Title VIII, Schedule A, act of October 3, 1917, does not apply to cards manufactured and removed tax paid prior to October 4, in hands of jobbers and retail dealers, unless packs to which stamps are affixed have been broken and cards repacked in new cases, in which event dealer so packing same would be liable to tax as in case of original manufacturer, under provisions of T. D. 1100. (T. D. 2538; Oct. 10, 1917. T. D. 2543; Oct. 19, 1917.)

Additional tax upon playing cards became effective on and after October 4, 1917, but such tax attaches only to playing cards manufactured or imported and sold or removed for sale on and after that date and is to be paid by the manufacturers or importers; tax does not apply to tax paid stocks in hands of wholesale or retail dealers who may sell all cards tax paid at 2 cents under act of August 28, 1894, which they had on hand on October 4, 1917, without incurring liability to additional tax. (T. D. 2543; Oct. 19, 1917.)

Power of attorney.

No stamp tax is imposed upon power of attorney contained in transfer by assignment of interest in contract of insurance, if power of attorney grants authority to do or perform only such acts for or in behalf of assignor as are otherwise vested in the assignee. (T. D. 2599; Dec. 3, 1917.)

Promissory notes.

Policy-loan and premium-extension agreements are not promissory notes as contemplated by the act of October 3, 1917, and therefore are not liable to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

Instrument not under seal containing simple promise to pay sum of money at specified time, such as is common in everyday commercial use, is promissory note within meaning of Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2713; May 14, 1918.)

Short-term instrument, although issued by corporation under trust indenture, may be regarded as a note if every instrument of such issue both (*a*) is payable to bearer and incapable of registration, and (*b*) lacks interest coupons and so requires presentation upon each payment of interest. (T. D. 2713; May 14, 1918.)

Failure to stamp promissory notes, which are subject to stamp tax under subdivision 6 of Schedule A, Title VIII, act of October 3, 1917, renders maker and acceptor of such notes separately liable under section 802(a) of the act. (T. D. 2795; Feb. 26, 1919.)

Sales for future delivery—Affixing and canceling stamps.

Stamps in value equal to amount of tax on sales must be affixed to memorandum or other evidence of sale or agreement to sell; clearing house, acting as agent, required to make returns showing stamps affixed and anceled; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Cotton.

Contract of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, is taxed at the rate of $0.02 for each pound of cotton involved (to be paid by stamp); tax not to be levied on contracts complying with conditions prescribed. (T. D. 2558; Oct. 26, 1917.)

—— Exempt transactions.

No tax is imposed on cash sales of produce or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered; sellers of produce, etc., may transfer contracts to clearing-house association and such transfer shall not be deemed to be a sale or agreement of sale, provided it does not vest beneficial interest in such association and is made only to enable such association to adjust accounts of its members; no by-law or custom of any exchange or similar institution, inconsistent with the act of October 3, 1917, or any regulations

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Sales for future delivery—Continued.

—— **Exempt transactions**—Continued.

thereunder, nor any collateral agreement inconsistent with such act or regulations thereunder shall exempt any person from payment of tax. (T. D. 2608; Nov. 30, 1917.)

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax imposed by section 807, Schedule A, subdivision 5, act of October 3, 1917, to apply; sale by member of exchange made by mail or wire not at an exchange is not subject to the tax. (T. D. 2795; Feb. 26, 1919.)

—— **Memorandum of sales.**

Every sale or agreement not evidenced by memorandum or contract expressly requiring immediate or prompt delivery shall be deemed to be for future delivery; every person making sale of any product, etc., at, on, or in any exchange for future delivery, shall deliver to the buyer a bill, memorandum, or other evidence of such sale, showing certain specified data and items of information; no single sale or contract made upon an exchange by one member for another need be evidenced by more than one memorandum; written return or sheet to clearing house, acting as agent, considered to be memorandum; return by clearing house. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

All persons who make sales or contracts of sales, including "transferred or scratched sales," "pass outs," "pair-offs," or "matched trades," and all other forms of sale of any product or merchandise on exchanges for future delivery required to keep record showing specified items of information; form of record required; clearing houses to keep record showing certain data. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 2, requires a statement of registration by persons making contract of sale of produce or merchandise on exchanges for future delivery; record of registration to be kept by collector and certificate of registration to be issued and posted; forms; statement of registration by exchanges and clearing houses. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons making contracts of sale at, on, or in any exchange etc., for future delivery, required to make return showing specified data and information; substitute returns; clearing houses, acting as agents, required to return statement of amounts of stamps affixed to memoranda of sales. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps required to be affixed to contracts of sale of any product or merchandise before a delivery shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

Sales of realty.

Contract for sale of real estate, making provision for future delivery by deed, is not subject to stamp tax. (T. D. 2599; Dec. 3, 1917.)

Sales of stock and like securities—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— **Exempt transactions.**

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries

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Sales of stock and like securities—Continued.

—— **Exempt transactions**—Continued.

to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 20, 1917.)

—— **Loans for purpose of sale.**

Transfer of shares or certificates of stock in any association, company, or corporation, made by the person loaning stock to another borrowing such stock to effect a sale, and also transfer of shares or certificates of stock from a borrower returning them to lender, in fulfillment of borrower's obligation to buy in and return stock, are both subject to tax imposed by sections 800 and 807 of the act of October 3, 1917; in so-called short-sale transaction, there are four taxable sales or transfers: (1) Sale of stock by person making short sale, (2) transfer from lender of stock to person making short sale, (3) purchase by borrower of stock to return to lender, (4) transfer by borrower to lender of shares to replace those borrowed. (T. D. 2685; Mar. 30, 1918.)

—— **Memorandum of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

Schedule.

Taxes imposed on various instruments by act of October 3, 1917, set forth. (T. D. 2558; Oct. 26, 1917.)

Security agreements.

Neither security agreements signed by prospective borrower of bank, empowering bank to apply any securities, money, or other property of the prospective borrower in the hands of the bank to satisfy the debt, nor the form of application for the loan, is subject to the stamp tax. (T. D. 2599; Dec. 3, 1917.)

Stock certificates.

Issues of interim certificates pending stock issue of corporations organized or reorganized on and after October 4, 1917, are subject to tax of 5 cents on each $100 face value or fractional part thereof; subsequent exchange of such interim certificates for regular stock certificates to same owner will not be subject to tax. (T. D. 2584; Nov. 20, 1917.)

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Stock certificates—Continued.

Tax of 5 cents on each $100 of face value or fraction thereof attaches to original issue of each certificate of stock, and tax of 2 cents on each $100 of face value or fraction thereof to each transfer or sale of stock, whether transfer is made before or after issuance of original certificate. (T. D. 2599; Dec. 3, 1917.)

A stock certificate is a document which is evidence of the number of shares of stock which the holder of it owns, and the stamp tax is laid not on each stock certificate that is issued but on each original issue of certificates. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

Issue of certificates of preferred or no par value stock in lieu of outstanding certificates of common stock, or vice versa, is not an original issue of stock. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

A corporation engaged in organization is deemed to issue stock when it obtains subscription for it. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

So-called business property investment bond, wherein it is certified that the holder thereof is the owner of interest in certain specified real property, legal title to which was previously conveyed to a trustee, and whereby corporation issuing same agrees to manage the property and distribute proceeds in certain manner, is not subject to tax as a certificate of stock. (T. D. 2795; Feb. 26, 1919.)

Temperance beer.

Responsibility of brewers, manufacturers of beverages, and dealers who place or market unstamped beverages found to contain more than one-half of 1 per cent of alcohol by volume, stated; duty of revenue agents having reason to suspect that such beverages are placed on market without payment of tax. (T. D. 2370; Sept. 18, 1916.)

Temporary use of stamps.

Instructions as to use of regular documentary stamps, pending preparation and distribution of special supply of overprinted stamps provided to temporarily take place of distinctive colored adhesive documentary stamps designed for use in payment of war stamp taxes imposed by paragraphs 4 and 5, Title VIII, Schedule A, act of October 3, 1917; requisition; issuance and exchange. (T. D. 2594; Nov. 28, 1917.)

Tobacco, cigars, etc.

Forms of orders for stamps, revised, standardized as to size, printed in different colors, required to be used as soon as supply is forwarded to collectors and distributed by them to manufacturers. (T. D. 2411; Dec. 12, 1916.)

Stamps required by section 400 of the act of October 3, 1917, must be affixed in such manner as to seal the package and shall be canceled by the manufacturer writing or imprinting on each stamp his factory number, the number of the district and State, and date of cancellation to include month and year; in case of importer of small cigars or cigarettes the stamps shall be canceled by the owner or importer writing or imprinting upon same his name and date of cancellation to include month and year. (T. D. 2569; Oct. 17, 1917.)

All attached and unattached stamps for payment of tax on tobacco, cigars, cigarettes, and snuff held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

Stamps for new sizes of packages for manufactured snuff or tobacco provided for in section 401 of act of October 3, 1917, shall be affixed and canceled in same manner as are strip stamps for tobacco and snuff under Regulations No. 8, revised July 1, 1910, page 41. (T. D. 2569; Oct. 17, 1917.)

Instructions with reference to use by manufacturer of revised Forms 168, 172, 173, 485, orders for stamps for cigars, tobacco, snuff, and cigarettes, respectively. (T. D. 2604; Dec. 12, 1917.)

Stamps on tax-paid tobacco, snuff, and cigars entered for export may be destroyed by exporter's employees in presence of officer detailed by collector in charge of exports and drawbacks, officer to verify by count the packages and see that stamps affixed are genuine, etc.; return of inspection; so much of articles 164–166 as requires presence of customs officer during inspection and which requires internal revenue inspector to personally destroy stamps, revoked. (T. D. 2330; May 1, 1916.)

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Trade acceptances.

The rule that the stamp tax on drafts and checks imposed by Schedule A of Title VIII of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to trade acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

Wines.

Wholesale dealers carrying unstamped wines must keep same separate and apart from tax-paid wines; separate buildings or rooms, however, will not be required. (T. D. 2387; Oct. 30, 1916.)

Transfers of wines by wholesale dealers from stamped to unstamped packages should be reported by such dealers in their monthly statements. (T. D. 2387; Oct. 30, 1916.)

Wines hereafter removed from wholesalers' premises or from any bonded premises unless transferred to other bonded premises, must be first tax paid; unstamped wines heretofore removed should be at once reported for assessment. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers who have shipped untax-paid wines subsequent to September 9, 1916, should make returns thereof and affix to such returns necessary tax-paid stamps. (T. D. 2387; Oct. 30, 1916.)

Wine stamps issued under emergency revenue act of October 22, 1914, may be used for wines, cordials, etc., taxable under the act of September 8, 1916; such stamps may be affixed to the casks or outer cases containing the taxable wines; bottles of wine removed from stamped cases should, however, be labeled by the dealer as containing wine removed from stamped packages or cases; bottles removed from unstamped cases should be stamped. (T. D. 2387; Oct. 30, 1916.)

Importer of wines or his agent permitted as matter of convenience to affix required stamps to custom entry instead of stamping packages or cases containing such wines, upon the compliance with stated instructions; where importer prefers to stamp each package or case, he may do so. (T. D. 2391; Nov. 6, 1916. T. D. 2414; Dec. 11, 1916.)

Shipper required to make bill of lading in triplicate, two copies to be filed with collector of district from which wines are shipped, with uncanceled stamps of required denominations affixed to one of such copies; bill of lading to which uncanceled stamps are attached will then be checked with maker's or dealer's monthly statement, and, together with uncanceled stamps, will be forwarded by collector by registered mail to Commissioner of Internal Revenue at close of each month; collector required to mail one copy of bill of lading to collector of district to which tank cars are consigned, noting thereon that appropriate stamps have been received in his office, and third copy of bill will be sent by shipper to consignee, after noting thereon that appropriate stamps were forwarded to collector's office; collector of district to which cars are consigned will see that they are not released to consignee until he has received copy of bill of lading duly certified by collector of district from which shipped, stating that proper stamps have been received in his office; label to be affixed to car will, in addition to prescribed marks, contain words "Tax paid;" shipments, whether in bond or tax paid, will be reported as separate items on Form 701 or 702, as case may be; wine shipped to other than bonded premises, on which tax has not been paid by stamp, will be seized and shipper thereof will be prosecuted under provisions of paragraph (f) of section 402 of the act of September 8, 1916. (T. D. 2474; Apr. 4, 1917. T. D. 2555; Oct. 25, 1917.)

Wines may be removed from stamped packages to show casks if on inspection of premises by deputy collector all wines are found to be duly stamped. (T. D. 2387; Oct. 30, 1916.)

Tax on unstamped wines removed from or to premises not bonded should be reported for assessment against shipper of such wines. (T. D. 2387; Oct. 30, 1916.)

Unstamped wines in hands of wholesaler or received by retailers on and after September 9, 1916, are subject to tax imposed by the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Imported or domestic still wines on which tax has been paid, but which when subsequently bottled become carbonated by secondary fermentation, are subject to tax as sparkling wines; where such change in wine is not produced by addition

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Wines—Continued.

of sugar for purpose of starting secondary fermentation and is merely incidental to bottling, dealer in such case not regarded as producer; to avoid double taxation additional tax found to be due may be paid by affixing additional stamps to bottles containing such wines, with label showing wines to have been bottled without treatment. (T. D. 2387; Oct. 30, 1916.)

Imported wines when removed from customhouse must be tax paid by stamp. (T. D. 2387; Oct. 30, 1916.)

Wines received by other than bonded dealers may be withdrawn from stamped packages to be clarified or placed in other containers, but all such new containers shall be labeled by the dealer showing the wine was withdrawn from stamped packages. (T. D. 2387; Oct. 30, 1916.)

Wines returned to bonded premises in stamped packages to be clarified may, when clarified, be replaced in such stamped packages, which should be set apart for that particular purpose; if otherwise recasked the wines will be subject to tax as if originally produced. (T. D. 2387; Oct. 30, 1916.)

Where wines of different alcoholic strength are blended, tax will be computed and paid on resultant product; this applies to wines previously tax paid, and any additional tax in such cases must be paid by stamps to be affixed to packages or cases containing such blended wines. (T. D. 2387; Oct. 30, 1916.)

Unstamped wines may be blended on bonded premises, but when removed must be stamped according to the alcoholic strength of wine as blended. (T. D. 2387; Oct. 30, 1916.)

In all cases where wines are sold for consumption on premises, barrels of wine exposed for sale in retail place must be stamped, but where dealers are limited by local regulations to sale for consumption off the premises, such barrels need not be stamped, but stamps shall be affixed to containers in which wine is delivered to consignor. (T. D. 2338; May 23, 1916.)

—— **Family use.**

Exemption of tax on wines produced for family use, under section 402 (b) of act September 8, 1916, does not apply to (a) wines made by one person for use of another, whether consumed on premises or removed therefrom for family use of owner; (b) wines produced by a single person, unless he is the head of a family; (c) wines produced by married man living apart from his family, and not for use of that family; (d) wines made by partnership, or to wines produced at a winery owned and operated by several heads of families jointly; (e) wines furnished ranch hands or boarders. (T. D. 2765; Oct. 21, 1918.)

Each person entitled to and desiring to avail himself of exemption provided by section 402 (b) of act September 8, 1916, must file notice with collector of internal revenue before commencing manufacture of wine; each notice must be on paper 8 x 10½ inches in size and in stated form. (T. D. 2765; Oct. 21, 1918.)

—— **Small quantity production.**

All parties producing not exceeding 1,000 gallons of wine per year, and who receive no wine in bond, must file notice on Form 698, two copies to be filed with collector, and one retained on winery premises; notice must describe and show location of buildings, size and use of each, number of fermenters and of wine tanks, respectively, and size of each; and estimated quantity of finished wine to be produced; and duplicate of notice on which registry number will be noted should be forwarded to Commissioner of Internal Revenue. (T. D. 2765; Oct. 21, 1918.)

In case of production not exceeding 1,000 gallons of wine per year all fermenters and all tanks must be numbered serially, commencing with No. 1, and the assigned number and capacity in wine gallons must be plainly and durably marked on each; upon receipt of specified notice collector will assign registry number to premises, and duplicate of notice on which such registry number will be noted should be forwarded to Commissioner of Internal Revenue. (T. D. 2765; Oct. 21, 1918.)

Wine maker producing not exceeding 1,000 gallons may either file bond, Form 699, or may deposit with collector as security Liberty Loan bonds or cash equal to amount of tax; if Liberty Loan bonds are deposited, he must execute bond, in duplicate, in stated form, and in such form with appropriate substitutions in case cash is deposited; bond and security must be filed with collector prior to time of crushing grapes. (T. D. 2765; Oct. 21, 1918.)

When Liberty Loan bonds or cash are deposited as security by wine maker production not exceeding 1,000 gallons per year, the collector should give the depositor

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Wines—Continued

—— Small quantity production—Continued.

a receipt in stated form, which receipt should be made in triplicate, one copy being immediately transmitted to Commissioner of Internal Revenue; safekeeping of bonds; assigning of registered bonds; security thus pledged should not be held by collector except upon instructions from Commissioner, and security will be surrendered as soon as tax and any accrued penalty and interest have been paid. (T. D. 2765; Oct. 21, 1918.)

In arriving at amount of tax to be paid by producers in quantities not exceeding 1,000 gallons per year, the quantity removed in bond, quantity set aside for family use, actual quantity of lees or sediment, and actual loss resulting from shrinkage, soakage, etc. (not exceeding 3½ per cent of quantity on which tax is paid) may be deducted. (T. D. 2765; Oct. 21, 1918.)

Owner or occupant of winery premises producing not to exceed 1,000 gallons per year must keep conspicuously on outside of building nearest street or highway sign in plain letters and figures, of not less than 3 inches in length and of corresponding width, indicating the premises and the registry number. (T. D. 2765; Oct. 21, 1918.)

When grapes are first crushed wine maker producing not to exceed 1,000 gallons per year must render report in stated form, in triplicate, and under oath, and two copies must be forwarded to collector and one retained on winery premises; if wines are shipped in bond from such wineries to other bonded premises, each shipment must be covered by Form 703, in quadruplicate, filed with collector as provided in case of other shipments of wines in bond. (T. D. 2765; Oct. 21, 1918.)

Tax on all wine produced by wine maker in quantities not exceeding 1,000 gallons per year must be paid not later than 90 days after manufacture thereof is commenced by affixing proper stamps to containers, and cancellation of the stamps, unless wine has been previously shipped in bond to other bonded premises and properly accounted for. (T. D. 2765; Oct. 21, 1918.)

After computation of tax on wines produced in quantities not exceeding 1,000 gallons per year has been made, and necessary stamps affixed and canceled, wine maker must render a report, in triplicate, in stated form, two copies of which report must be forwarded to collector and one retained on the winery premises. (T. D. 2765; Oct. 21, 1918.)

Where possible, collectors, upon receipt of reports from producers of wines in quantities not exceeding 1,000 gallons per year should detail officers to wineries to see that stamps are affixed to containers and properly canceled by writing in ink or stamping name or initials of producer and date of cancellation on tax stamps; stamps must also be rendered entirely unfit for reuse by cutting them through diagonally or crosswise or by perforation, so as to remove substantial portion of paper. (T. D. 2765; Oct. 21, 1918.)

Provisions of section 3324, Revised Statutes, relative to obliteration of stamps on empty distilled-spirits casks and packages, including provisions imposing penalties, apply to empty wine packages; therefore, in case of wines produced in quantities not exceeding 1,000 gallons per year, unless stamps on empty packages are effaced and obliterated penalties provided by such section will be asserted. (T. D. 2765; Oct. 21, 1918.)

Where regulations relating to production of wine in quantities not exceeding 1,000 gallons per year are not complied with, penalties provided in paragraph (f), section 402, act September 8, 1916, will be incurred. (T. D. 2765; Oct. 21, 1918.)

STATES.

Apportionment of taxes on income.

The sixteenth amendment to the Constitution of the United States does not extend the taxing power to new or excepted subjects, but merely removes all occasion which otherwise might exist for an apportionment among the States of taxes laid on income, whether it be derived from one source or another. (T. D. 2726; June 4, 1918. Ct. Dec.)

Bonds or obligations—Exemption from income tax.

Interest on State, municipal, and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; art. 4.)

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Bonds or obligations—Exemption from income tax—Continued.

Interest on obligations of a State or any political subdivision thereof shall not be included as income. (T. D. 2690; art. 5.)

All interest received on obligations of United States or its possessions or on obligations of a State, or any political subdivision thereof, should be eliminated in ascertaining gross income; accrued interest on bonds purchased must not be included in amount eliminated from gross income; in case of obligations of United States issued after September 1, 1917, income therefrom is exempt from tax only to extent provided in the act authorizing their issue, and income from such obligations received by insurance companies is exempt from 2 per cent and 4 per cent tax. (T. D. 2690; art. 239.)

Interest upon obligations of State or any political subdivision thereof is exempt; obligations issued for public purpose by or on behalf of State or duly organized political subdivision acting by constituted authorities duly empowered to issue such obligations are obligations of a State or political subdivision thereof. (T. D. 2715; May 20, 1918.)

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of those functions of State which by long usage and inherent necessities of government have always been regarded as public; the term includes special-assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

Carriers' facilities, exemption from tax on use of.

See "Transportation Tax."

Colleges—Income tax on salaries under Smith-Lever Act.

Where employees of universities receiving salaries paid in part or in whole from funds received under the Smith-Lever Act of May 8, 1914, are officers or employees of a State, they are not required to include in their income tax returns as taxable income the salaries so received; if organization of college is one which belongs to State and which State governs, legislature may vacate offices, elect new professors, and do whatever it thinks necessary in management of the college, but if colleges are governed by trustees not directly responsible to State legislatures, employees receiving salaries paid in part from Smith-Lever funds are not employees of the State, and are not exempt from tax on that ground. (T. D. 2668; Mar. 9, 1918.)

Definition.

The word "State," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns and other municipalities. (T. D. 2676; Mar. 18, 1918.)

Destruction of property—Income taxes.

Property destroyed by order of authorities of State or of United States may be claimed as a loss; if reimbursement is made, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

Actual cost of property destroyed by order of authorities of a State or of the United States may be claimed as a loss; but if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

Estate tax—Deductions.

Amounts paid to States on account of inheritance, succession, or legacy taxes, are not "such other charges against the estate as are allowed by the laws of the jurisdiction," and are not deductible in arriving at amount of Federal estate tax. (T. D. 2524; Sept. 10, 1917.)

Excise taxes.

Articles sold to a State or a political subdivision thereof for use in carrying on its governmental operations are not subject to tax. (T. D. 2719; Art. VII.)

A State or any political subdivision thereof buying or leasing an article for its own use is not a dealer, nor in the case of moving-picture films is it deemed an exhibitor or exchange. (T. D. 2719; Art. XXXVII.)

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Insurance department—Reports to, accompanying income-tax returns.

Copy of report to State insurance department should, wherever possible, be submitted with returns; otherwise Schedule D, parts 1, 3, and 4 of report, should be attached thereto, showing Federal, State, and municipal obligations from which interest omitted from gross income was derived; amounts representing reinsurance treaties will be eliminated from income and disbursements; deposit premiums or perpetual risks received and returned should be treated in same manner, but earnings on deposits will be included in premium income. (T. D. 2690; art. 239.)

Occupational taxes.

Pool tables and bowling alleys are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of pool tables and bowling alleys in State armories, fire houses, etc., and also in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

Officers or employees—Income taxes.

Individual who contracts with State or any political subdivision thereof, for doing of specific things, completion of which will constitute fulfillment of contract on part of such individual, is not an officer or employee of the State, or political subdivision thereof, within section 4 of the income-tax law, and amount received by him is to be accounted for as income. (T. D. 2690; art. 4.)

Compensation of all officers and employees of a State or any political subdivision thereof, except when such compensation is paid by United States Government, shall not be included as income. (T. D. 2690; art. 5.)

Proper officers of State imposing income tax are entitled as of right upon request of its governor to have access to income and profits tax returns of corporation, etc., or to abstract thereof, showing its name and income; proper officers in this connection are only those officers of the State charged with enforcement of the State income tax law and who are to use the information gained by the access only in connection with such enforcement; contents of request or application of governor, which must be in writing, signed by him under the seal of his State, and be addressed either to the Secretary of the Treasury or to the Commissioner of Internal Revenue, stated; access shall be given only in the office of the Commissioner, and the officers designated by the governor will not be permitted to name another person to examine the returns or abstracts for them, and the officers designated will be given access only to returns of those corporations, etc., organized and doing business in their State. (T. D. 2962; Jan. 7, 1920.)

—— War tax on bonds.

Bonds given by officials of a State, township, county, or village, for faithful performance of duties, are free from Federal taxation on broad ground that sovereign States and subdivisions thereof are constitutionally free from taxation by Federal Government. (T. D. 2624; Dec. 14, 1917.)

Public utilities—Income taxes.

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

Taxes—Deductions for income-tax purposes.

Taxes imposed against a corporation by authority of any State or taxing subdivision of the State (not including those assessed against local benefits) and paid within year for which return is made, are deductible from gross income of domestic corporation; similar taxes with like exceptions assessed against and paid by foreign corporation receiving income from any source within United States are deductible from gross income received from such source, except that taxes imposed by foreign government and paid by foreign corporations are not deductible from gross income received from sources within United States. (T. D. 2690; art. 191.)

Tax imposed by laws of New York upon transfer of property by will or under intestate laws is not deductible in ascertaining net income of legatee or distributee under act of October 3, 1913; it is not a tax within the meaning of paragraph B, Section II, permitting deduction of all national, State, county, school, and municipal taxes paid during the year. (T. D. 2933; Oct. 9, 1919. Ct. Dec.)

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Telegraph, etc., messages—Official business.

All telegraph, telephone, or radio messages of officers and employees of a State, on official business, are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telegraph, telephone, or radio company; officer or employee sending telegraph or radio message should certify thereon that it is on account of official biusness and not for private purposes; form of certificate indicated. (T. D. 2551; Oct. 22, 1917.)

Under section 502 of act of October 3, 1917, radio messages, telegraph messages, and telephone messages relating to Government business, which originate in United States, and are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

STATUTES.

Construction.

The legislative history of an act may, when the meaning of the words used is doubtful, be resorted to as an aid to construction; but no aid can possibly be derived from the legislative history of another act passed nearly six years after the one in question. (T. D. 3046; July 19, 1920. Ct. Dec.)

Where a taxing act is ambiguous the construction of the administrative officers charged with its execution is entitled to great respect. (T. D. 3051; July 27, 1920. Ct. Dec.)

Inequalities in a valid taxing act arising in the application to a particular case can not be corrected by judicial construction. (T. D. 3051; July 27, 1920. Ct. Dec.)

STATUTE OF LIMITATIONS.

Refunds.

Under the provision of section 14, paragraph (a), act September 8, 1916, that upon examination of any return of income made pursuant to title I, the act of August 5, 1909, and act of October 3, 1913, if it shall appear that amounts of tax have been paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding provisions of section 3228 of the Revised Statutes, claims for refund which have once been rejected by the Commissioner because of the statute of limitation in existence at that time may be reopened; claims rejected can also be reopened if the question involves an examination of the return. (T. D. 2396; Nov. 1, 1916.)

STILLS.

Manufacture, removal, and registry.

See "Distilled Spirits."

STOCKS

See "Corporations."

Capital stock—Issue—Stamp tax.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of certificates representing stock never before issued, no matter when authorized. (T. D. 2752; Aug. 14, 1918.)

Where corporation issues preferred stock in place of common, or one kind of preferred stock in place of another kind of preferred stock, or stock without par value in place of stock with par value, tax imposed by act October 3, 1917, on issue of capital stock applies, even though total outstanding stock is not thereby increased. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1916.)

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Capital stock—Issue—Stamp tax—Continued.

Tax imposed by act October 3. 1917, on issue of capital stock applies to issue of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York banking law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Issue of stock by a consolidated corporation, in exchange for stock of the consolidating corporations, is a taxable original issue under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

—— **Transfer—Stamp tax.**

Tax imposed by act October 3, 1917, on transfer of capital stock, applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting trust certificates, to transfer of shares in so-called Massachusetts trusts and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to the same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock, prior to exercise of the right, and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of stock, does not attach to exchange of stock certificates of merged corporation for stock certificates of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, not to substitution of new certificates for certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value, in the case of shares having a face or par value, and by the actual value determined by the mar-

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Capital stock—Continued.

—— Transfer—Stamp tax—Continued.

ket price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Capital stock tax.

See "Capital Stock Tax."

Dividend—Income tax.

Stock dividends declared from earnings or profits accrued prior to March 1, 1913, or from surplus created by revaluation of capital assets, or from placing value upon trade-marks, good will, etc., do not represent distribution of earnings or profits subject to tax in hands of shareholders; when stock received in payment of such dividend, or stock in respect of which any such dividend was paid, is sold, cost of each share of stock, whether new or old, for purpose of ascertaining gain or loss from sale, is quotient of cost of old stock, if acquired on or after March 1, 1913, or its fair market price or value as of that date if acquired prior thereto, divided by the number of old and new shares added together, and profit so ascertained is income subject to both normal and additional tax, to be accounted for in shareholder's return for year in which sale is made. (T. D. 2734; June 17, 1918.)

Member of partnership need not include as part of net income subject to normal tax, income tax law of 1913, such of his income derived from or through a partnership as has been received by partnership in shape of dividends on stocks owned by it in corporations taxable upon their net income. (T. D. 2858; June 9, 1919. Ct. Dec.)

Neither under the sixteenth amendment to the Constitution nor otherwise has Congress power to tax without apportionment a true stock dividend made lawfully and in good faith, or the accumulated profits behind it, as income of the stockholder; act September 8, 1916, held unconstitutional in so far as it imposes an income tax upon true stock dividends. (T. D. 3010; Apr. 26, 1920. Ct. Dec.)

Where a corporation, being authorized so to do by the laws of the State in which it is incorporated, transfers a portion of its surplus to capital account, issues new stock representing the amount of the surplus so transferred, and distributes the stock so issued to its stockholders, such stock is not income to the stockholders and the stockholders incur no liability for income tax by reason of its receipt. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, being thereunto lawfully authorized, increases its capital stock, and simultaneously declares a cash dividend equal in amount to the increase in its capital stock, and gives to its stockholders a real option either to keep the money for their own or to reinvest it in the new shares, such dividend is a cash dividend and is income to the stockholders whether they reinvest it in the new shares or not. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, which is not permitted under the laws of the State in which it is incorporated to issue a stock dividend, increases its capital stock and at the same time declares a cash dividend under an agreement with the stockholders to reinvest the money so received in the new issue of capital stock, such dividend is subject to tax as income to the stockholder. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

Where a corporation, having a surplus accumulated in part prior to March 1, 1913, and being thereunto lawfully authorized, transfers to its capital account a portion of its surplus, issues new stock representing the amount so transferred to the capital account and then declares a dividend payable in part in cash and in part in shares of the new issue of stock, that portion of the dividend paid in cash will, to the amount of the surplus accumulated since March 1, 1913, be deemed to have been paid out of such surplus, and be subject to tax, but the portion of the dividend paid in stock will not be subject to tax as income. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

A dividend, paid in stock of another corporation held as a part of the assets of the corporation paying the dividend, is income to the stockholder at the time the same is made available for distribution to the full amount of the then market value of such stock (Peabody *v.* Eisner, T. D. 2732); and if such stock be subsequently sold by the stockholder, the difference between its market value at date of receipt and the price for which it is sold is additional income or loss to him, as the case may be. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

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Dividend—Income tax—Continued.

The profit derived by a stockholder upon the sale of stock received as a dividend is income to the stockholder and taxable as such even though the stock itself was not income at the time of its receipt by the stockholder. For the purpose of determining the amount of gain or loss derived from the sale of stock received as a dividend or of the stock with respect to which such dividend was paid, the cost of each share of stock (provided both the dividend stock and the stock with respect to which it is issued have the same rights and preferences) is the quotient of the cost of the old stock (or its fair market value as of March 1, 1913, if acquired prior to that date) divided by the total number of shares of the old and new stock. (T. D. 3052; Aug. 4, 1920. Ct. Dec.)

—— Stamp tax on transfer.

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of right to receive stock dividend already declared. (T. D. 2752; Aug. 14, 1918.)

Estate tax.

Securities such as shares of stock in domestic corporations which are property within the United States within the meaning of Title II of the act of September 8, 1916, deposited by an individual not resident within the United States with the British Treasury, for which certificates of deposit were issued, are at the death of such nonresident, if such certificates have not been transferred, a part of his gross estate and subject to estate tax. (T. D. 2772; Nov. 8, 1918.)

Sales—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Amount of tax.

Tax of 5 cents on each $100 of face value or fraction thereof attaches to original issue of each certificate of stock, and tax of 2 cents on each $100 of face value or fraction thereof to each transfer or sale of stock, whether transfer is made before or after issuance of original certificate. (T. D. 2599; Dec. 3, 1917.)

—— Exempt transactions.

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— Memorandum of sales.

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— Rate of taxation.

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— Records.

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

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Sales—Continued.

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

Stamp tax.

Sale by Alien Property Custodian of shares or certificates of stock, under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, his agreement so to sell, and his transfer of legal title to certificates or shares so sold, are not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan 29, 1919.)

Transfer to Alien Property Custodian of shares or certificates of stock in compliance with demand made by him under the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

A stock certificate is a document which is evidence of the number of shares of stock which the holder of it owns, and the stamp tax is laid not on each stock certificate that is issued but on each original issue of certificates. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

A corporation engaged in organization is deemed to issue stock when it obtains subscription for it. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

Issue of certificates of preferred or no par value stock in lieu of outstanding certificates of common stock, or vice versa, is not an original issue of stock. (T. D. 3002; Apr. 20, 1920. Ct. Dec.)

So-called business property investment bond, wherein it is certified that the holder thereof is the owner of interest in certain specified real property, legal title to which was previously conveyed to a trustee, and whereby corporation issuing same agrees to manage the property and distribute proceeds in certain manner, is not subject to tax as a certificate of stock. (T. D. 2795; Feb. 26, 1919.)

STOCK EXCHANGES.

Definition.

The word "exchange" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes each and every agent or agency, auction place, or other meeting place at which stocks are publicly bought, sold, bid for, offered or exchanged, and includes all incorporated and unincorporated associations, individuals, partnerships, and corporations, engaged in business of publicly selling, buying, or exchanging shares of stock or interests therein. (T. D. 2608; Nov. 30, 1917.)

Documentary stamps.

Instructions as to use of regular documentary stamps pending preparation and distribution of special supply of overprinted stamps, provided to temporarily take place of distinctive colored stamps; requisition; issuance and exchange. (T. D. 2594; Nov. 28, 1917.)

Stamp tax—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificates of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— **Exempt transactions.**

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be

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Stamp tax—Continued.

—— **Exempt transactions**—Continued.

accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40. Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— **Memorandum of sales.**

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or fraction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents; requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

STOCK FARMS.

Income tax returns.

See "Farmers."

STOCKS OF GOODS.

Floor tax.

See "Floor Taxes."

STORAGE.

See "Warehouses."

Income tax—Information at source.

Bills paid for storage do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

STOREKEEPER-GAUGERS.

Assignment—Bonded wineries.

Regulations with reference to assignment to bonded wineries of gaugers and of storekeeper-gaugers as gaugers; compensation and traveling expenses; duties; proprietors required to furnish Salleron-Dujardin ebullioscopes for use of gaugers, and sweet wine sets may be used by revenue agents, deputy collectors, and others, for verifying and testing alcoholic content of wines. (T. D. 2380; Oct. 10, 1916.)

General storekeeper-gauger will be designated, assigned, and compensated, and will perform service as provided by Regulations Nos. 7 and 2, and T. D. 2408, with the reservation that in the discretion of the collector of internal revenue, or of the

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Assignment—Continued.

—— Distilleries.

Commissioner, any distillery, general, or special bonded warehouse may be placed in charge of an officer thus designated whenever withdrawal of spirits is inconsiderable or whenever the collector or the Commissioner deems such course to be for the best interest of the Government. (T. D. 2444; Feb. 9, 1917.)

Instructions with reference to assignment to distilleries of storekeeper-gaugers in place of storekeepers and gaugers; bonds; hours of work; duties; compensation. (T. D. 2438; Jan. 29, 1917. T. D. 2456; Mar. 16, 1917.)

Compensation.

On and after January 1, 1917, compensation of storekeeper-gaugers designated as general storekeeper-gaugers fixed at rate of $4 per day, together with actual and necessary traveling expenses, except that when aggregate quantity of spirits remaining in charge of general storekeeper-gauger is reduced to 5,000 or less gallons rate of compensation will be $3 per day for such days only as he may be required to visit warehouses for withdrawal of spirits or other necessary purposes. (T. D. 2408; Dec. 7, 1916.)

Rate of pay of officers assigned in dual capacity of storekeeper-gaugers to distillery warehouses at distilleries having registered capacity of more than 20 bushels and to special bonded and general bonded warehouses fixed at $4 per day, this rate to be applicable in case of distillery warehouse whether distillery is being operated or is under suspension, and as to all warehouses irrespective of quantity of spirits stored therein; when, however, quantity of spirits in warehouse is 5,000 gallons, or less, rate of pay will be fixed at $4 per day for such days only as officer is required to visit warehouse for necessary purposes; this rate of pay to be effective on and after February 1, 1920. (T. D. 2980; Feb. 11, 1920.)

SUBSCRIPTIONS.

Admissions.

Tax imposed by section 700 of act of October 3, 1917, is to be collected upon price paid and at time of paying for subscriptions; no refund of any part of tax is authorized because one or more performances may be missed; in case of subscriptions covering period before and after November 1, 1917, tax is payable on proportion of price paid representing admissions on amd after November 1, 1917, and should be collected upon first exercise of the subscription right after October 31, 1917. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Sale of right to subscribe to stock.

Where corporations desiring to secure additional capital propose to issue and sell further shares of stock, reserving to their stockholders the right to subscribe for, at par or any other stipulated price, a certain number of shares of the new stock issue, proportioned to the number previously held, and if such stockholders shall sell their rights, it will be held that the proceeds of such sale are in their entirety income for the year in which the rights are sold, and should be so returned by the stockholders, whether they be individuals or corporations. (T. D. 2690; art. 95.)

Amounts realized from sale of rights to subscribe to stock is held to be income to the seller. (T. D. 2690; art. 4.)

Stamp tax on corporate stock subscription.

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of interest of subscribers for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock prior to exercise of the right and actual subscription. (T. D. 2752; Aug. 14, 1918.)

SUBSIDIARY CORPORATIONS.

See "Holding Companies."

Capital stock tax.

Holding companies and subsidiary corporations are both required to file returns and pay tax, and no deductions are allowed on return of holding corporation for tax paid by subsidiary. (T. D. 2503; June 25, 1917.)

So-called subsidiary corporations, all or part of stock of which is owned by another corporation, must render returns in same manner as other corporations; no deduction

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Capital stock tax—Continued.

is allowed in return of a holding corporation for tax paid by subsidiary. (T. D. 2750, art. 24; Aug. 9, 1918.)

Consolidated returns.

See "Excess Profits Tax."

Income taxes—Gross income.

Where holding company actually takes up each month on its books and credits surplus and profit and loss with its proportionate share of earnings of underlying companies, holding company required to include in gross income amounts thus taken up, regardless of fact that same may not have been paid to or received by it in cash; fact that underlying companies credit holding company with amount of earnings to which it is entitled on basis of stock it holds, together with fact that holding company takes up on its books amount thus credited, renders it incumbent upon holding company to return these amounts as income. (T. D. 2690; art. 115.)

Where subsidiary or other corporation sells or transfers assets to parent or other corporation, accepting in exchange therefor stock or bonds of purchasing corporation, question of gain or loss will be determined upon basis of difference between cost or market value of assets sold and actual value of stock or bonds given in exchange therefor; any gain or loss thus ascertained as resulting from such transaction will be added to or deducted from entire gross income, as case may be, of selling corporation in year in which capital assets were sold. (T. D. 2690; art. 119.)

Where corporation is owner of all stock in subsidiary company and the lessee of all its property, regularly maintaining possession, control and management of all the subsidiary's money and other property, so that the subsidiary is a mere agent of the other corporation and is practically merged therewith, dividends of the subsidiary declared out of a surplus which accrued prior to March 1, 1913, are not taxable income of the parent corporation. (T. D. 2730; June 11, 1918. Ct. Dec.)

When one corporation owns stock of another in same or related line of business, and in effect operates other corporation, business of such other falling within general scope of powers of first, that business may be in effect, although not in legal form, business of first corporation; income of first corporation may be put into second through purchase of stock or otherwise, and might, if subsidiary relationship is established, constitute employment of income in its own business; for such employment to fall within exceptions provided in section 10 (b) of the act of September 8, 1016, as amended, it would be essential for corporation to show same facts with reference to actual utilization of funds so employed, or their retention for its reasonable requirements which it would be necessary for corporation to show with reference to funds employed or retained directly by it. (T. D. 2736; June 18, 1918.)

Investment by corporation of income in securities of another corporation is not, without more, to be regarded as employment of the income in "the business"; business of one corporation may not be regarded as including business of another within meaning of exception in section 10 (b) of act of September 8, 1916, as amended, unless other corporation is mere instrumentality of first; to establish this it is ordinarily essential that first corporation own all of the stock of the second. (T. D. 2736; June 18, 1918.)

Where a holding company owns all of the stock of its subsidiary corporations, except the qualifying shares of the directors, and the subsidiary corporations, together with the holding company, constitutes a single enterprise, the accumulated earnings and surplus of the subsidiary corporations used by them as capital prior to January 1, 1913, does not become taxable income of the holding company when formally transferred to it as dividends; T. D. 2542 reversed. (T. D. 2783; Jan. 7, 1919.)

—— Returns.

Where one corporation operating for itself is controlled by another through the ownership of a majority or all of its stock, controlling corporation is merely a stockholder, and subsidiary company must make separate and distinct return, accounting for all income received during each taxable year, and holding company will return as income any dividends or earnings received from operating company. (T. D. 2690; art. 125.)

Every corporation not specifically enumerated as exempt shall make return of annual net income whether or not it may have for any past year any net income, or whether or not it shall be a subsidiary of, or controlled by, another corporation. (T. D. 2690; art. 203.)

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Income taxes—Continued.

—— **Returns**—Continued.

Fact that branch corporation is organized in any State to meet peculiar conditions there existing and which make it impracticable for parent company as such to do business in such State, although such subsidiary may be to all intents and purposes a mere branch of the parent company, does not relieve it from necessity of making return for each year; if such branch corporation actually transacts business from which income arises, accrues, and is received by it, such corporation must make detailed return, as if it were in no way related to any other corporation, setting forth full amount of income which it receives or which accrues to it, together with authorized deductions therefrom, and upon any net income thus disclosed, tax will be assessed and required to be paid. (T. D. 2690; art. 207.)

Where net income of subsidiary corporation upon which tax has been levied and payable is turned over to parent company, holder of its stock, amount so turned over will be held to be dividends, or amounts paid to it out of net earnings and must be returned by parent company for purpose of 2 per cent tax imposed by the act of September 8, 1916, but for purpose of war income tax imposed by Title II of act of October 3, 1917, net income of parent company may be reduced by amount of dividends so received. (T. D. 2690; art. 207.)

Subsidiary corporations which actually transact business in their own names, receive income for their own account, incur and pay expenses incident to production of income, keep separate books of account, and, as separate entities, exercise all the powers and functions authorized by their charters, will be required to pay income tax on net income received by them from all sources, regardless of fact that such net income is paid or turned over to a parent or holding company, by whom it must also be returned for purpose of tax imposed by section 10 of the act of September 8, 1916; in latter case both parent and subsidiary companies must make separate returns. (T. D. 2690; art. 208.)

Subsidiary corporations existing in name only or as mere agents or integral parts of parent company will be required to make returns of annual net income, and shall indorse thereon statement that it is a subsidiary or integral part of the parent company (naming it) and that for its own account it has no income from any source whatever, that it makes no disbursements, and that all business done in its name is done for account of and as business of parent corporation, and will be accounted for in return of such parent corporation. (T. D. 2690; art. 208.)

Where subsidiary corporations exist in name only, or are mere agents or integral parts of parent organization and as such transact no business and have no income of and for their own account, and incur no expenses, all business being transacted, all income being received, and all expenses being paid directly by parent company, no separate accounts being kept by or for such subsidiaries, it will be considered that such subsidiary concerns do not have any taxable income within meaning of Title I of the act of September 8, 1916, as amended by the act of October 3, 1917, and so long as they are so operated no tax liability will be asserted against them. (T. D. 2690; art. 208.)

SUCCESSION TAXES.

See "Inheritance Taxes."

SUNDAY.

Distilleries, operation of.

Distillers producing alcohol exclusively for nonbeverage purposes may operate on Sundays the same as on week days, and collectors may require storekeeper-gaugers and storekeeper-gaugers in capacity of gaugers to remain on duty; notation to be made on vouchers for monthly compensation to effect that distilleries were in operation under provisions of section 302, act of October 3, 1917. (T. D. 2636; Jan. 24, 1918.)

Income tax returns.

When last due date for filing return falls on Sunday or a legal holiday the lats due date will be held to be day following such Sunday or legal holiday, and return should be made not later than such following day, or, if placed in the mails, it should be posted in ample time to reach collector's office, under ordinary handling of the mails, on or before date on which return is required to be filed. (T. D. 2690; art. 219.)

SURETY BONDS.

See "Bonds."

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SWIMMING POOLS.

Admissions.

See "Admissions."

SWITCHING COMPANIES.

Transportation charges.

If a terminal or yard for the use of one or more railroads, jointly or severally, be operated under the management of a terminal or switching company, and the user cost therefor be based on either gross or net costs of operation, commodities necessary in the operation of such terminal or yard shall, as respects sections 500 and 501 of the act of October 3, 1917, be considered as commodities necessary for the use of such carriers thereof, and tax does not apply to charges for such commodities, if transported over lines of such carriers; if, however, a terminal or yard be operated under its own management for profit or if a fixed rental be charged, tax applies to transportation charge made by tenants or users on such commodities. (T. D. 2676; Mar. 18, 1918.)

TABLE WATERS.

Excise taxes.

Artificial mineral waters, not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

TARIFF DUTIES.

Income taxes—Deductions.

Import or tariff duties levied by Congress and paid to proper customs officers are deductible as taxes imposed under authority of United States, provided they are not added to and made a part of the cost of articles of merchanduse, with respect to which they are paid, in which case they will be reflected in cost of merchandise and can not be separately deducted. (T. D. 2690; art. 195.)

TAXABLE YEAR.

Definition.

The term "taxable year," as used in war excess-profits tax regulations, means the 12 months ending December 31 of each year, except in case of corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year, and, unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning; first taxable year is year ending December 31, 1917, except that in case of corporation or partnership which has fixed its own fiscal year, first taxable year is fiscal year ending during calendar year 1917. (T. D. 2694; arts. 1, 5.)

TELEGRAPHS AND TELEPHONES.

Capital stock tax—Exemption of mutual or cooperative companies.

Farmers' or other mutual or ooperative telephone company of purely local character, income of which consists solely of assessment, dues, and fees collected from members for purpose of meeting expenses, is exempt from tax imposed by section 407 of act of September 8, 1916. (T. D. 2383; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

Foreign Governments—Transmission charges.

Amounts paid by foreign Governments for transmission services are subject to the taxes imposed by section 500 of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

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Income taxes—Exemption of mutual or cooperative companies.

Mutual or cooperative telephone company is specifically exempt from income tax, provided that its entire income consists solely of assessments, dues, and fees collected from members for sole purpose of meeting expenses incurred in pursuance of purpose for which organized; if any such organization has income from any source other than assessments, dues, and fees such income is taxable and organizations receiving same will be required to make returns. (T. D. 2690; art. 69.)

—— Information at source.

Bills paid for telegrams or telephone do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Official business—War tax.

Messages of officers and employees of United States, or of a State, Territory, or the District of Columbia, on official business, are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telephone, telegraph, or radio companies. (T. D. 2551; Oct. 22, 1917.)

Under section 502 of act of October 3, 1917, telegraph and telephone messages relating to Government business, which originate in United States and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

Transportation charges.

Where a telegraph or telephone line or lines along a railroad is necessary for the use of the railroad company in the conduct of its business as such and the railroad company under contract transports commodities necessary to maintain or operate such telephone or telegraph lines, such commodities being intended to be or having been so used, and the railroad company makes no charge for such transportation, charges which but for such arrangement would have accrued, are exempt from tax. (T. D. 2676; Mar. 18, 1918.)

TEMPERANCE BEER.

See "Fermented Liquors."

TENNIS.

Admissions—Tennis courts.

Where an admission charge in form is made, but in fact is merely payment for privilege of using certain equipment, such as tennis courts, admission is incidental to privilege of using such equipment, and tax imposed by section 700 of act of October 3, 1917, does not apply. (T. D. 2681; Mar. 26, 1918.)

Dues—Tennis clubs.

Tennis clubs are included within the term "athletic and sporting" clubs, as used in section 701 of the act of October 3, 1917, imposing a tax on amounts paid as dues or membership fees to any athletic or sporting club. (T. D. 2681; Mar. 26, 1918.)

Excise taxes—Rackets and balls.

The tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which tennis rackets and balls are sold by the manufacturer. (T. D. 2719; Art. XVII.)

TERMINAL COMPANIES.

Excise taxes.

Where profit was one of the substantial objects of the organization of a corporation, incorporated to provide and operate a terminal for certain railroads, it is organized for profit within the meaning of the act of August 5, 1909. (T. D. 2671; Mar. 11, 1918. Ct. Dec.)

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Excise taxes—Continued.

Where terminal railway company, organized to perform terminal services for railroad companies which own its stock, and such railroad companies and a trust company enter into arrangement whereby trust company made a loan to such terminal company, secured by pledge by railroad companies of the stock, latter companies agreeing to pay annual interest and sinking fund requirement of loan, evidenced by bonds secured by mortgage on terminal company's property, payments of installments of interest and sinking fund were but payments of rent by railroad companies to terminal company to be accounted for as part of its income, as rent would be though made direct to trust company. (T. D. 2710; Apr. 22, 1918. Ct. Dec.)

Transportation charges.

If a terminal or yard for the use of one or more railroads, jointly or severally, be operated under the management of a terminal or switching company, and the user cost therefor be based on either gross or net costs of operation, commodities necessary in the operation of such terminal or yard shall as respects sections 500 and 501 of the act of October 3, 1917, be considered as commodities necessary for the use of such carriers thereof, and tax does not apply to charges for such commodities if transported over lines of such carriers; if, however, a terminal or yard be operated under its own management for profit or if a fixed rental be charged, tax applies to transportation charge made by tenants or users on such commodities. (T. D. 2676; Mar. 18, 1918.)

Whenever a taxable charge in connection with a terminal service is paid by one carrier, acting for consignor or consignee, to another carrier, tax applicable shall be paid by former carrier to latter carrier, who shall return and remit same. (T. D. 2676; Mar. 18, 1918.)

TERRITORIES.

Alcoholic liquors—Act published.

Extracts from act of Februaury 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Carriers, exemption from tax on facilities furnished by.

See "Transportation Tax."

Definition.

The word "territory," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns and other municipalities. (T. D. 2676; Mar. 18, 1918.)

Excise taxes—Exports.

Taxes imposed by sections 313, 315, and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its island or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Taxes imposed by such sections 313, 315, and 600 of the act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Public utilities—Income taxes.

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

Telegraph, etc., messages, exemption from tax.

See "Telegraphs and Telephones."

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THEATERS AND SHOWS.

Admissions.

See "Admissions."

Income taxes—Depreciation of costumes.

Costumes purchased and used exclusively in production of a play and which are not adapted for occasional personal use and are not so used, are part of the equipment of a business, and, as such, subject to depreciation in value on account of wear and tear arising from their use in the business; reasonable allowance for such depreciation may be claimed. (T. D. 2690; art. 8.)

Occupational taxes.

See "Occupational Taxes."

TICKETS.

Admission.

See "Admissions."

Transportation of persons.

See "Transportation Tax."

TIMBER.

Excise taxes—Income.

The gain on a sale of timber acquired by a lumber manufacturing company before January 1, 1909, and converted into money after that date, is income within the meaning of the corporation excise tax act of 1909, but only such portion of the gain as accrued subsequent to December 31, 1908, is taxable. (T. D. 2723; June 4, 1918. Ct. Dec.)

Income taxes—Deduction for depletion.

In case of timber lands, fair market price or value of timber standing March 1, 1913, or cost of timber when purchase was made subsequent to that date, will be basis for calculation of depletion, and this value as of March 1, 1913, or cost when subsequently purchased, is not to be exceeded for purposes of deduction in returns of income; whole of such value is to be distributed over entire amount of standing timber on those respective dates; rules governing timber-owning companies. (T. D. 2690; arts. 8, 173.)

Corporations owning timber land and logging off the timber and manufacturing it into lumber, will, if timber was acquired prior to March 1, 1913, be permitted to exclude from gross income either through deduction from gross receipts or through charge into cost of manufacturing timber into lumber, an amount equivalent to fair market price or value of standing timber as of March 1, 1913; corporations must set up on their books as of March 1, 1913, the fair market price en bloc, of all timber then owned by them, and then, by dividing such value by estimated number of feet in entire holdings, per unit value or price will be ascertained, which per unit price or value will be basis for measuring amount to be added to cost of manufacture, or deducted from gross income, until en bloc value of entire holdings shall have been extinguished; same rule applies to timber or timber lands purchased subsequent to March 1, 1913, only difference being that actual cost shall be substituted for en bloc price or value. (T. D. 2690; art. 173.)

Where entire market price or value for both timber and lands as of March 1, 1913, or entire cost, if acquired subsequent to that date, is extinguished through deduction from gross income for timber used, or through per unit charge to cost of manufacturing lumber, entire amount realized from logged-off lands or other salvage will be returned as income of year in which such lands are sold or disposed of; if timber or timber lands are sold en bloc, gain or loss will be ascertained on basis of difference between fair market price, or cost, and selling price, accordingly as property was acquired prior or subsequent to March 1, 1913. (T. D. 2690; art. 173.)

Fair market price or value of timber lands as of March 1, 1913, is price at which property in its then condition, and with circumstances then surrounding it, could have been sold for cash or its equivalent; such value must not be speculative, but must be determined without taking into account any prospective profits that may result by manufacturing the timber into lumber; value, once determined, must be set up on books, and, as measure of stumpage deduction, must remain constant and can not be increased except as new purchases are made at higher average cost; value so set up will be subject to approval of Commissioner. (T. D. 2690; art. 173.)

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TIME.

See "Limitation of Actions."

Particular acts or proceedings.

See specific heads.

TITLE.

See "Sales."

Certificates of ownership.

Where debtor corporation or its duly authorized withholding agent has made no payments of interest to nonresident alien individuals or foreign corporations, having no office or place of business in the United States, or has withheld no tax from citizens or residents of United States, whether or not bonds upon which such interest accrued contain tax-free covenant clause, exemption certificates filed in connection with such interest payments shall be transmitted direct to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., accompanied by return on Form 1096, which form shall be filed monthly, and need not be sworn to; if a corporation or withholding agent has withheld tax and is therefore required to render return on Form 1012, revised, all certificates received shall be accounted for on such monthly return, as directed by instructions thereon. (T. D. 2687; Apr. 1, 1918.)

Original ownership certificates accompanied by monthly list returns, in case of interest on bonds of domestic or resident corporations, when filed with Commissioner of Internal Revenue, shall constitute and be treated as returns of information. (T. D. 2690; art. 35.)

Form 1000, revised, shall be used when no personal exemption is claimed against interest on bonds containing tax-free covenant by citizens or residents of the United States; by nonresident alien individuals, foreign corporations having no office or place of business in the United States, whether or not such bonds contain a tax-free covenant; and in case where coupons are received not accompanied by certificates of ownership. First bank receiving coupons not accompanied by ownership certificates will make certificate, crossing out "owner" and inserting "payee" and will enter amount of interest on line 4. (T. D. 2690; art. 43.)

Banks and collecting agents, debtor corporations, and withholding agents, authorized to accept, until June 1, 1918, certificates of ownership on old forms when properly executed. (T. D. 2702; Apr. 18, 1918.)

Foreign items shall not be accepted for collection by any bank or collecting agent unless indorsed as prescribed or accompanied by proper ownership certificates, giving all information called for by such certificate; where first licensed bank or collecting agent is source of information, licensee shall attach ownership certificate and indorse on item the words "Certificate attached and information furnished," adding his name and address; when foreign items have been properly indorsed, certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D 2759; Oct. 2, 1918.)

Where interest coupon is received for collection, ownership certificate shall accompany coupon to paying agent in this country, or if there is no such agent, then to last bank or collecting agent handling item in this country; when more than one coupon of same maturity is received at one time from same owner and from same issue of bonds, single certificate may be used; when foreign items have been properly indorsed; certificates shall be attached and forwarded to Commissioner of Internal Revenue (Sorting Division), Washington, D. C., on or before 20th day of month following that during which items were accepted, accompanied by letter of transmittal, showing number of certificates and aggregate amount of foreign items disclosed thereon. (T. D. 2759; Oct. 2, 1918.)

Where paying agent or last bank or collecting agent in this country is source of information, ownership certificate shall accompany coupon to such agent or source of information, who shall forward ownership certificate to Commissioner of Internal Revenue, in manner provided where duty is placed upon licensee, provided that in case ownership certificate, Form 1000, is used, paying agent shall make return on Form 1012. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by nonresident alien individuals, or foreign corporations, associations, or part-

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Certificates of ownership—Continued.

nerships, ownership certificate, Form 1071, revised, shall be sued for and on behalf of such owners by any responsible bank or banker, either foreign or domestic. (T. D. 2759; Oct. 2, 1918.)

Where bonds of foreign countries, or bonds or stocks of foreign corporations, are owned by citizens or residents of United States, individual or fiduciary, or by domestic or resident corporations, joint-stock companies, associations, insurance companies, or partnerships, ownership certificate 1001A shall be executed by actual owner, or by his duly authorized agent, when presenting item for collection, whether item is dividend or interest payment, except in case of foreign country or foreign corporation having paying agent in this country and issuing bonds containing "tax free" covenant clause; in such cases paying agent will withhold normal tax upon interest on such bonds, and ownership certificates, Form 1000, properly modified to show that debtor has paying agent in this country, should be used, unless owner desires to claim exemption, when Form 1001A should be used. (T. D. 2759; Oct. 2, 1918.)

Holding companies.

See "Holding Companies."

Floor tax.

Goods shipped and invoiced prior to October 4, 1917, are property of consignee and if shipped to wholesaler are subject to floor tax; if, however, title is reserved in manufacturer he is subject to manufacturer's tax and wholesaler is relieved from floor tax. (T. D. 2547; Oct. 22, 1917.)

Time when title passes depends upon intention of parties; in absence of intention to contrary, title is assumed to pass from seller to buyer upon delivery of goods to carrier. (T. D. 2547; Oct. 22, 1917.)

Income taxes—Deduction of expense of defending title.

Cost of defending title or perfecting title to property constitutes part of cost of property and is not deductible as a business expense. (T. D. 2690; art. 8.)

Insurance.

See "Insurance."

TOBACCO.

See "Cigars"; "Cigarettes"; "Snuff."

Floor tax.

Tax-paid manufactured tobacco in excess of specified quantity held for sale on October 4, 1917, as well as contents of broken packages and goods in transit on such date, required to be inventoried and returned for assessment of tax provided for by section 403 of the act of October 3, 1917; dealers and others required to pay tax must make return on Form 416C, in duplicate, under oath, on or before November 2, 1917; payment of tax required at time of filing return, but may, upon filing of bond, be extended to date not exceeding seven months from passage of act of October 3, 1917; principal office or place of business to make return where two or more stores are operated by same dealer. (T. D. 2556; Oct. 16, 1917.)

Stocks of cigars, tobacco, and cigarettes held for sale at close of business, October 3, 1917, at post exchanges at Army camps are not subject to floor-stock taxes imposed by section 403 of act of October 3, 1917. (T. D. 2584; Nov. 20, 1917.)

Manufacturers—Books and returns.

Instructions with reference to entries to be made in books and monthly returns on November 2, 1917, when full increased taxes became effective. (T. D. 2569; Oct. 17, 1917.)

—— Inventories.

Instructions with reference to making inventory required by sections 3358, 3390, Revised Statutes; no claim of failure to make true inventory—in which certain tobacco was not included—submitted in response to notice to show cause against assessment for omitted tax on apparent deficiencies shown in examination of manufacturer's account, will be entertained; verification of inventories by deputy collectors. (T. D. 2390; Nov. 4, 1916.)

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Manufacturers—Continued.

—— Inventories—Continued.

Instructions with reference to inventories required to be filed January 1, 1918, and verification thereof by collectors of internal revenue or their deputies; further duties of deputy collectors stated. (T. D. 2583; Nov. 17, 1917.)

Manufacturers of tobacco required to make inventories in accordance with sections 3358, 3390, Revised Statutes, such inventory to be made before commencement of business on January 1, 1919; tobacco of each class, and stamped, as well as unstamped, manufactured plug, twist, fine-cut, and smoking tobacco should be weighed separately; inventory must include unstemmed tobacco stored off bonded factory premises and also the attached and unattached stamps; tobacco material in factory required to be segregated according to classification; tobacco dust, sweepings, etc., must be inventoried as "waste"; weight and marks of each unopened package, etc., required to be listed on back of inventory form; record of quantity of tobacco used from date of inventory to date of deputy collector's visit required to be kept; inventory must be verified early as practicable after January 1, 1919; duties of deputy collectors enumerated. (T. D. 2777; Dec. 11, 1918.)

Inventories prepared in accordance with sections 3358 and 3390, Revised Statutes, required to be filed before commencement of business on January 1, 1920; weighing; inventory of attached and unattached stamps required; segregation of tobacco material in factory; tobacco dust, sweepings, etc., to be inventoried as "waste"; listing of weight and marks of unopened packages, etc.; verification; duties of deputy collectors. (T. D. 2955; Nov. 29, 1919.)

A corporation carrying on business as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, will be required to have the monthly reports and inventories signed and sworn to by a duly authorized officer or agent of the corporation and to file the monthly reports within the prescribed time with the collector of the district in which the factory or dealer's place of business is located. (T. D. 3073; Sept. 27, 1920.)

An officer's authority to sign and make oath to a corporation's monthly reports and inventories, unless specifically given in the charter or by-laws, must be conferred by a resolution in due course of the board of directors. In case of such resolution, a certificate thereof in duplicate, executed by the president and attested by the secretary, should be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. (T. D. 3073; Sept. 27, 1920.)

Whenever it is not possible or convenient for an officer of a corporation to sign and swear to its monthly reports and inventories as a manufacturer of tobacco, snuff, cigars, or cigarettes, or as a dealer in leaf tobacco, an agent may be authorized to execute them and may bind the corporation as fully as an officer, under the following conditions:

A resolution in due course of the board of directors should appoint and authorize the superintendent or manager of the factory or leaf establishment, identifying both the individual and the factory or leaf establishment, to execute the monthly reports and inventories required of the corporation, and provide further that the power of attorney so created shall continue in full force until written notice of the revocation thereof is given to the collector of the district thereby affected. A certificate in duplicate of such resolution, executed by the president and attested by the secretary, should then be filed with the collector of the district in which the monthly reports and inventories are to be filed; one copy should be retained by the collector and one forwarded by him to the Commissioner. Such certificate will constitute authority for the collector, until he has actual notice of the recall of the power, to accept monthly reports and inventories executed by such agent. (T. D. 3073; Sept. 27, 1920.)

Actual and accurate inventories as required by law must be made by manufacturers of tobacco, snuff, cigars, and cigarettes on January 1, 1921. Each manufacturer should observe carefully the following instructions:

(1) The inventory must be made before the commencement of business on January 1, 1921. After it is completed the correct totals should be immediately entered on the blank form which will be furnished to each manufacturer by the collector of the district in which his factory is located.

(2) All stamped, as well as unstamped, manufactured plug, twist, fine cut, and smoking tobacco, snuff, cigars, and cigarettes of the several classes must be separately weighed or counted, as the case may be. An accurate inventory of attached and unattached stamps must also be made.

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Manufacturers—Continued.

—— Inventories—Continued.

(3) All tobacco material in the factory should be segregated according to the classification provided in the prescribed inventory form, and weighed separately.

(4) The weight and marks of each unopened hogshead, case, or bale, or other package of tobacco, and all broken packages of tobacco and loose tobacco within the factory and inventoried by the manufacturer, should be listed and each item should be sufficiently described to aid the deputy collector in verifying the inventory. Such list should be made on the back of the inventory form or on separate sheets of the same size attached thereto.

(5) Tobacco dust, siftings, sweepings, and waste shall be inventoried by cigar manufacturers under the head of "waste" only, and by quasi manufacturers of tobacco under separate heads, each properly described.

(6) An accurate record of the quantity of tobacco of each class used during the period from the date of inventory to the date of the visit of the deputy should be kept for the purpose of enabling him to arrive at the actual quantity of tobacco of each class which was on hand on the inventory date. (T. D. 3099; Dec. 10, 1920.)

Each inventory shall be verified by a deputy collector at the earliest practicable date after January 1, 1921. Each deputy should be directed, in determining the correctness of the figures shown in the inventory, to take into account the quantity of tobacco of each different kind sold and used on the one hand and purchased on the other hand between the time of his visit and the taking of the inventory. The deputy should require any necessary amendment to be made before permitting oath to be taken and should observe the instructions in Regulations No. 8 (revised July 1, 1910), page 60, under the head of "Deficiencies found by examining officers." Any deficiencies which may be discovered should be reported immediately. (T. D. 3099; Dec. 10, 1920.)

Every dealer in leaf tobacco is required to make and deliver to the collector of the district in which he is registered a true inventory, showing the places where his tobacco is stored and the kinds and quantity of each kind of tobacco held by him at each place, on January 1, 1921. Such inventory shall include all tobacco in his possession, but will not include tobacco owned by him, but held by another dealer, who must include it in his inventory. Such inventory shall be made under oath on Form 776, and shall show also the condition of the tobacco (whether green, redried, or resweated) on the inventory date. Actual weighing of tobacco on the inventory day will not be required, but if the tobacco is not weighed, the inventory should show that the "marked" weights are reported. (T. D. 3099; Dec. 10, 1920.)

—— Permits to remove.

New form of special permit, Form 688, adopted to take place of Record 100 for issue to manufacturers of cigars and tobacco applying therefor, authorizing removal of certain kinds of tobacco from bonded factory premises for sale or transfer to another factory or for return to leaf dealer; instructions as to contents of application for permit filing of application, etc. (T. D. 2422; Dec. 28, 1916.) See T. D. 2957; Dec. 16, 1919.

Printed Form 712, application of manufacturers of cigars and tobacco for permits to remove tobacco, etc., from factories for transfer to another manufacturer or return to dealer in leaf tobacco, adopted; manufacturer of tabacco and cigars required to be instructed that applications for permits to remove, etc., must be made on such form and that it must be legibly and accurately filled in, and that in case unstemmed or stemmed leaf tobacco or stems are shipped or delivered to dealer in leaf tobacco, the abbreviation "D. L. T." should be indicated in proper place in the application. (T. D. 2478; Apr. 9, 1917.) See T. D. 2957; Dec. 16, 1919.

—— Returns for registry.

Instruction requiring Form 277, revised, to be used exclusively for return for registry of manufacturers of tobacco, dealers in leaf tobacco, and peddlers of tobacco, when such occupations are not subject to special taxes. (T. D. 2485; Apr. 24, 1917.)

—— Withdrawal for export.

Instructions with reference to supplying manufacturers of tobacco, snuff, cigars, and cigarettes with revised Form 550, application for withdrawal from export. (T. D. 2521; Sept. 1, 1917.)

Peddlers.

Act of September 7, 1916, amending subsection 11 of section 3244, Revised Statutes, defining "peddler" of tobacco, published for information of internal-revenue officers and others concerned. (T. D. 2376; Oct. 3, 1916.)

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Rates of tax.

Taxes imposed by sections 400 to 403 of the act of October 3, 1917, removed from factory or customhouse for consumption or use on and after October 4, 1917, and November 2, 1917, according to their several classifications, shown by table. (T. D. 2569; Oct. 17, 1917.)

Registration of dealers.

Dealers in leaf tobacco and retail dealers in leaf tobacco, having paid special tax for period ended December 31, 1916, required, on account of expiration by limitation on said date of the act of October 22, 1914, to make return for register on Form 277 and obtain certificates of registry, Forms 282 and 641, respectively, for period of fiscal year ended June 30, 1917; dealers who commenced business on and after January 1, 1917, required to file returns for register and to obtain certificates of registration; certificates required to be posted conspicuously in dealers' places of business. (T. D. 2420; Dec. 26, 1916.)

Soldiers' kits.

Instructions with reference to the shipment from tobacco and cigarette factories of so-called soldiers' kits or cartons containing packages of tobacco and cigarettes to New York, there to be repacked under supervision of customs officer for exportation to United States soldiers in Europe. (T. D. 2517; Aug. 17, 1917.)

Stamps—Cancellation.

Stamps for the new sizes of packages for manufactured tobacco provided for in section 401 of act of October 3, 1917, shall be affixed and canceled in same manner as are other strip stamps for tobacco and snuff under the provisions of existing regulations No. 8, revised July 1, 1910, page 41. (T. D. 2569; Oct. 17, 1917.)

—— Inventory and return.

All attached and unattached stamps for payment of tax on tobacco held by manufacturers in their factories on October 4, 1917, and November 2, 1917, before commencement of business on said days, required to be inventoried and returns filed for additional tax, as provided in section 1006 of act of October 3, 1917; stamps in transit on date inventory is required purchased at old rates must be included in inventory; forms for returns and inventories; manufacturers required to render return and inventory notwithstanding he may have no stamps on hand on dates mentioned. (T. D. 2569; Oct. 17, 1917.)

—— Orders.

Forms of orders for stamps, revised, standardized as to size, printed in different colors, required to be used as soon as supply is forwarded to collectors and distributed by them to manufacturers. (T. D. 2411; Dec. 12, 1916.)

Instructions with reference to use by manufacturer of revised Form 172, orders for stamps for tobacco. (T. D. 2604; Dec. 12, 1917.)

—— Sales.

Stamps for tax payment on imported tobacco, snuff, cigars, and cigarettes, to be sold only to owners, consignees, or importers, on requisition of proper customhouse officer; stamp order Forms 168, 172, 173, and 485 restricted to use of manufacturers in the United States; Regulations No. 8, revised July 1, 1910, page 62, amended to provide that when cigars, etc., imported in the mails, are for delivery at places other than where examined by customs officers and are forwarded to the postmaster ,who notifies the addressee, furnishing him with Customs Catalogue No. 3493, which is forwarded to postmaster with the package, necessary stamps shall be procured from and sold by the nearest collector of internal revenue. (T. D. 2500; June 15, 1917.)

Time when act effective.

Section 401 of the act of October 3, 1917, levying a tax upon tobacco, took effect on November 2, 1917. (T. D. 2547; Oct. 22, 1917.)

Withdrawal for use of United States—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district and State, the number of original or statutory packages

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Withdrawal for use of United States—Continued.

—— Application—Continued.

and contents of each shall be set forth in each application as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner; application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

—— Bills of lading.

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the other shall be forwarded immediately with letter of transmittal to the Commissioner. (T. D. 2982; Jan. 22, 1920.)

—— Bond for transportation and delivery.

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State, from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33 executed in duplicate, and the duplicate form to be attached to the duplicate bond; the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

—— Certificate of receipt by Government officer.

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within 30 days of date of withdrawal; where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— Collector's account; credit on bond.

The bond covering the total quantity of product requisitioned will be credited in the office of the Commissioner, to whom the collector will forward the original certificate of receipt immediately after it is received by him. (T. D. 2982; Jan. 22, 1920.)

—— Departmental requisition.

Whenever tobacco is purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal

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Withdrawal for use of United States—Continued.

—— **Departmental requisition—Continued.**

Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district, and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

—— **Entries in manufacturer's records and reports.**

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made, and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— **Labeling or branding.**

Each individual package of tobacco manufactures shall be labeled or branded "For use of U. S. Government," together with number of permit and the date thereof, the letters and figures of such printing to be conspicuous, in bold-face type, of not less than one-fourth of an inch in height. (T. D. 2982; Jan. 22, 1920.)

—— **Permit.**

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else requests should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

TOILET ARTICLES AND SOAPS.

Alcohol—Exports.

Where alcohol is used in the manufacture of toilet preparations for export, drawback thereon should include both tax of $1.10 per proof gallon and additional tax paid thereon, under act of October 3, 1917. (T. D. 2572; Oct. 24, 1917.)

Formula 3A, for special denaturation of alcohol for use in the manufacture of transparent soap, modified. (T. D. 2820; Apr. 10, 1919.)

Formula No. 31, for special denaturation of alcohol to be used in the manufacture of tooth paste, stated; samples of finished product, together with formula of ingredients, labels, advertising matter, etc., required to be furnished; this data should be accompanied by full description of process of manufacture and a blue print or pencil drawing showing location of room or rooms in which denatured alcohol is to be used. (T. D. 2819; Apr. 10, 1919.)

Formula 31A, for the denaturation of alcohol for use in the manufacture of tooth paste, stated. (T. D. 2855; June 7, 1919.)

Distilled spirits.

Use of distilled spirits for other than beverage purposes includes the manufacture of cosmetics and toilet preparations, including bay rum, perfumery, and toilet waters, extract of witch hazel, and listerine. (T. D. 2559; Oct. 26, 1917.)

Excise taxes.

The tax imposed by section 600 (g) of the act of October 3, 1917, upon toilet articles and soaps, is 2 per cent of the price for which they are sold by the manufacturer; soaps advertised or held out as suitable for toilet purposes are taxable; containers of perfumes, if billed and shipped separately, raw materials, and floor oils, floor wax, kitchen soap powders and other articles ordinarily used for household and not for toilet purposes, are not subject to the tax; concentrated essences sold to druggists and manufacturers for making toilet articles, but not for use as such, are not subject to the tax. (T. D. 2719; Art. XVIII.)

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Excise taxes—Continued.

On the sale, for a lump price, of a fountain shaving brush with a filled shaving cream cartridge which is separate and replaceable, the excise tax is only upon the price of the filled cartridge as separately determined, namely, the established retail price of the filled cartridges sold separately. (T. D. 2782; Dec. 24, 1918.)

A soap powder chiefly designed for laundry purposes and sold by the manufacturer in bulk to laundries and also sold for retail distribution to the public in packages bearing directions for use as a hair shampoo, for which it is to a small extent actually used, is subject to excise tax upon the sales in packages, but not upon the sales in bulk. (T. D. 2785; Jan. 23, 1919.)

TOOLS.

Income taxes—Deduction of cost.

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools may be included under this item. (T. D. 2690; art. 4.)

Cost of farm machinery is not an allowable deduction as item of expense, but cost of ordinary tools of short life or insignificant cost, such as hand tools, including shovels, rakes, etc., may be included under this item. (T. D. 2690; art. 123.)

TORPEDOES.

See "Munition Manufacturers' Tax."

Definition.

The term "torpedoes," as used in Title III of the act of September 8, 1916, comprehends any receptacle to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

TOWNSHIPS.

Official bonds—War tax.

Bonds given by officials of a State, township, county, or village, for faithful performance of duties, are free from Federal taxation on broad ground that sovereign States and subdivisions thereof are constitutionally free from taxation by Federal Government. (T. D. 2624; Dec. 14, 1917.)

TOYS.

Excise taxes.

Toy talking machines are subject to tax imposed by section 600 (b) of the act of October 3, 1917. (T. D. 2719; Art. XI.)

Tax imposed by section 600 (f) of the act of October 3, 1917, is 3 per cent of the price for which the sporting goods and games enumerated, except children's toys and games, are sold by the manufacturer. (T. D. 2719; Art. XVII.)

Toy cameras are taxable under section 600 (j) of the act of October 3, 1917, if capable of taking a picture. (T. D. 2719; Art. XXV.)

TRADE.

Definition.

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business," as used in war excess profits tax regulations, include all sources of income, and unless otherwise indicated by the context, the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual, the terms "trade," "business," and "trade or business," as used in war excess profits tax regulations, comprehend all his activities for gain, profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation they shall be construed to be a trade or business whether continuously carried on during taxable year or not; unless otherwise indicated by the context, terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 8.)

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Distilled spirits.

Distilled spirits for nonbeverage purposes may be used only in the arts, sciences, and trades, where circumstances are such that there can be no probability that the spirits will be sold or used for beverage purposes or in the manufacture or production of any article intended for use as a beverage. (T. D. 2559; Oct. 26, 1917.)

Income tax—Deduction of losses.

Difference between losses "incurred in his business or trade" and losses "in transactions entered into for profit but not connected with his business or trade" is illustrated by difference between definitions of "avocation" and "vocation"; losses under former come under the head of vocation, while those under latter come under head of avocation; losses under latter head may be deducted to amount not exceeding profits arising from transactions under that head. (T. D. 2690; art. 8.)

TRADE ACCEPTANCES.

Stamp taxes.

The rule that the stamp tax on drafts and checks imposed by Schedule A, of Title VIII, of the act of October 3, 1917, attaches to drafts or checks at the time of delivery, if delivered within the territorial jurisdiction of the United States and expressed to be payable otherwise than at sight or on demand, but not to drafts or checks not yet delivered or delivered in a foreign country or expressed to be payable at sight or on demand, is applicable to trade acceptances as defined by the regulations of the Federal Reserve Board. (T. D. 2682; Mar. 26, 1918.)

TRADE BRANDS.

See "Marks and Brands."

TRADE DISCOUNTS.

Excise taxes—Deduction.

A discount for cash or other discount made subsequently to sale can not be deducted in computing price for purpose of tax imposed by section 600 of the act of October 3, 1917. (T. D. 2719; Art. III.)

TRADE-MARKS AND TRADE NAMES.

Excess profits tax—Invested capital.

The term "other intangible property," as used in section 207 of the act of October 3, 1917, construed to mean property of character similar to good will, trade-marks, and other specific kinds of property enumerated in same clause. (T. D. 2694; art. 47.)

If good will, trade-marks, trade brands, franchises of a corporation or partnership, or other intangible property has been purchased with stock or shares issued prior to March 3, 1917, amount that may be included in invested capital must not exceed 20 per cent of par value of total stock or shares outstanding on that date, nor actual value of asset at date acquired, nor par value of stock issued in payment for the asset. (T. D. 2694; art. 57.)

Subject to limitations stated invested capital of individual is measured by total of actual cash paid into trade or business, tangible property paid into trade or business, patents and copyrights, and good will, trade-marks, trade brands, franchises, and other tangible property. (T. D. 2694; art. 66.)

Patents and copyrights, and good will, trade-marks, trade brands, franchises and other similar intangible assets may be included in invested capital at value not to exceed actual cash paid therefor, or actual cash value at time of payment of tangible property paid therefor, but only if bona fide payment was made therefor specifically as such in cash or tangible property. (T. D. 2694; art. 68.)

Excise taxes—Medicinal preparations.

Tax imposed by section 600 (h) of the act of October 3, 1917, is 2 per cent of the price for which all medicinal preparations, compounds, or compositions whatsoever are sold by the manufacturer; provided that they are prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark. (T. D. 2719; Art. XIX.)

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Excise taxes—Medicinal preparations—Continued.

Every medicinal preparation, compound, or composition embraced within one or more of the subdivisions in Article XIX of Regulations No. 44 is subject to tax; if article is made or prepared by manufacturer claiming to have private formula, secret or occult art for it, it is taxable even though it is not prepared, uttered, vended, or exposed for sale under any letters patent or trade-mark, and it is not held out or recommended to public as proprietary medicine or medicinal proprietary article or preparation or as a remedy or specific for any disease or affection of the human or animal body. (T. D. 2719; Art. XX.)

Preparations made in accordance with formulas contained in United States Pharmacopoeia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; Art. XX.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art. XXI.)

If article or its container has on it both a trade-mark or trade name of one manufacturer, and the individual or business name of another, the owner of the trade-mark or trade name will be deemed the manufacturer; if the article or its container has on it both the commercial name of the article and an individual or business name, the latter will be deemed to designate the manufacturer. (T. D. 2719; Art. XXI.)

Taxability of medicinal preparation under section 600 (h) of the act of October 3, 1917, is determined by the manner in which it is prepared or the way in which it is put upon the market; if article is advertised under name or trade-mark of manufacturer, or any name in possessive case is used on label or on literature describing medicinal preparation, or name of manufacturer is made part of name or title, or any intimation is otherwise given that article is of distinctive origin, tax is imposed; where medicinal preparations are sold under what appears to be or what is intended to be a trade-mark appropriated to the article, the tax attaches. (T. D. 2719; Art. XXII.)

Boric acid when sold under a trade-mark as a medicinal preparation is taxable under section 600 (h) of act of October 3, 1917. (T. D. 2719; Art. XXII.)

Licorice put up in sticks, lozengers, or in other forms suitable for medicinal purposes and sold under a trade-mark is subject to the tax imposed by section 600 (h) of the act of October 3, 1917. (T. D. 2719; Art. XXIII.)

Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically a part of the name of the preparation, is not of itself a trade-mark under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Autographic name of manufacturer of medicinal preparation printed across middle of label is not a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Coined name used for a particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers, is a "trade-mark" under section 600 (h) of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Income taxes—Deductions for depreciation.

No deduction will be allowed for depreciation of trade-marks and trade brands; if such assets shall have been purchased at a determined price and shall be later sold at a price less than cost or less than their determined fair market value as of March 1, 1913, if acquired prior to that date, amount by which selling price is less than cost or value, as case may be, will be loss deductible from gross income of year in which such assets were sold. (T. D. 2690; art. 168.)

—— Gross income.

Stock dividends declared from earnings or profits accrued prior to March 1, 1913, or from surplus created by revaluation of capital assets, or from placing value upon trade-marks, good will, etc., do not represent distribution of earnings or profits subject to tax in hands of shareholders; when stock received in payment of such dividend, or stock in respect of which any such dividend was paid, is sold, cost of each share of

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Income taxes—Continued.

—— **Gross income**—Continued.

stock, whether new or old, for purpose of ascertaining gain or loss from sale, is quotient of cost of old stock, if acquired on or after March 1, 1913, or its fair market price or value as of that date if acquired prior thereto, divided by the number of old and new share added together, and profit so ascertained is income subject to both normal and additional tax, to be accounted for in shareholder's return for year in which sale is made. (T. D. 2734; June 17, 1918.)

TRADING STAMPS.

Income taxes—Deduction of expenses.

Corporations which issue trading stamps, coupons, etc., for purpose of increasing business, which stamps or coupons are redeemable in merchandise, may deduct, as business expense, amount which such corporation actually expend for such stamps or coupons, and also actual cost of merchandise given in redeeming same. (T. D. 2690; art. 141.)

TRADING WITH ENEMY ACT.

Income tax returns—Extension of time.

Extension of time granted for such period as may be necessary, not exceeding 90 days after proclamation by President of end of war with Germany, for filing returns of income for 1917 and subsequent years, under sections 6 (c), 8 (b) (c), and 13 (b) (c), of act of September 8, 1916, as amended, and under war income tax act of October 3, 1917, by or for enemies or allies of enemies, as defined by section 2 of the trading with the enemy act of October 6, 1917, not holding license granted under such act; return of information required; duties of persons controlling money or property for any such enemy or ally of enemy. (T. D. 2673; Mar. 18, 1918.)

Stamp taxes.

Conveyance of realty to Alien Property Custodian in compliance with demand made by him under trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Transfer to Alien Property Custodian of shares or certificates of stock in compliance with demand made by him under the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Conveyance by Alien Property Custodian of realty sold by him under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, is not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

Sale by Alien Property Custodian of shares or certificates of stock, under authority of section 12 of the trading with the enemy act of October 6, 1917, as amended, his agreement so to sell, and his transfer of legal title to certificates or shares so sold, are not subject to stamp tax imposed by Schedule A of Title VIII of the act of October 3, 1917. (T. D. 2786; Jan. 29, 1919.)

TRANSFERS.

See "Sales."

Capital stock—Stamp taxes.

Surrender of stock of consolidating corporations, in exchange for stock of the consolidated corporation, is not a taxable transfer under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of stock to or from voting trustees or other trustees, to transfer of voting-trust certificates, to transfer of shares in so-called Massachusetts trusts and other unincorporated associations, to transfer of right to receive a stock dividend already declared, and to transfer of interest of a subscriber for stock, however such interest may be evidenced or conditioned upon further payments. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock attaches to sales or transfers of stock, whether or not represented by certificates. (T. D. 2752; Aug. 14, 1918.)

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Capital stock—Stamp taxes—Continued.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of preferred and common stock, whether or not exchanged for old stock, upon reorganization of corporation under section 24 of the New York stock corporation law for purpose of issuing stock without par value, but tax on transfers of stock is inapplicable to surrender of old stock in exchange for new stock pursuant to such reorganization. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of capital stock does not apply to surrender of certificates in exchange for other certificates representing same or new stock, provided they are issued to the same holder, nor does it apply to surrender of stock certificates for retirement and redemption for cash; if, however, corporation buys some of its own stock and transfers it to itself, whether or not it intends eventually to cancel it, transfer is subject to tax. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock does not apply to transfer of "rights" to subscribe for stock prior to exercise of the right and actual subscription. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfers of stock does not attach to exchange of stock certificates of merged corporation for stock certificate of merging corporation at the time and as part of the merger of trust companies under sections 487–496 of the New York banking law, nor to substitution of new certificates for certificates representing old stock of the merging corporation. (T. D. 2752; Aug. 14, 1918.)

Where, as under section 15 of the New York stock corporation law, providing for merger of ordinary corporations, acquisition of stock of corporation to be merged is condition precedent to merger, transfer of such stock to merging corporation prior to actual merger is taxable under act October 3, 1917. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock is measured, not by amount paid in, on, or for the stock, but by the face or par value, in the case of shares having a face or par value, and by the actual value determined by the market price or otherwise in case of shares having no face or par value but an actual value in excess of $100 a share. (T. D. 2752; Aug. 14, 1918.)

Decedent's estate.

See "Estate Tax"; "Inheritance Taxes."

Definition.

The word "transfers" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes all sales, agreements to sell, memoranda of sales, and all deliveries or transfers of legal title, except as otherwise specifically provided in such regulations. (T. D. 2608; Nov. 30, 1917.)

Shares of stock and like securities—Affixing and canceling stamps.

Stamp must be affixed to bill, memorandum, or agreement to sell, where transfer is effected by delivery of certificate of stock assigned in blank; in case change of ownership is by transfer of certificate of stock, stamp shall be affixed to the certificate; in case evidence of transfer is shown only by books of company, stamp shall be placed upon the books; in all other cases payment shall be evidenced by affixing stamp upon memorandum or agreement of sale to be delivered by the seller to the buyer; manner of canceling stamps stated. (T. D. 2608; Nov. 30, 1917.)

—— Exempt transactions.

No tax is imposed upon agreement evidencing deposit of stock certificates as collateral security, nor upon deliveries or transfers to broker for sale, nor upon deliveries or transfers by broker to customer, provided such deliveries or transfers shall be accompanied by certificate setting forth the facts, nor upon transfers or deliveries to clearing house for sole purpose of clearing or adjusting accounts between members; no by-law or custom of any exchange or similar institution, nor any collateral or additional agreement or understanding, inconsistent or in conflict with any requirement of the act of October 3, 1917, or of Regulation No. 40, Part 1, shall exempt any person from the payment of the tax. (T. D. 2608; Nov. 30, 1917.)

—— Memorandum of sale.

Persons selling or agreeing to sell stocks required to deliver to buyer a numbered memorandum of sale, or agreement to sell, signed by principal or his agent, showing date of transaction, names of parties, shares of stock to which it relates, number and price of shares. (T. D. 2608; Nov. 30, 1917.)

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Shares of stock and like securities—Continued.

—— **Rate of taxation.**

In the case of shares or certificates of stock having a face or par value, amount of tax shall be based upon total face value of shares involved, and shall be at rate of 2 cents for each $100 of such total face value or friction thereof, whether such aggregate face value is greater or less than $100. (T. D. 2608; Nov. 30, 1917.)

—— **Records.**

Persons engaged in business of buying, selling, or transferring shares of stock, required to keep record showing specified items of information; form of record required. (T. D. 2608; Nov. 30, 1917.)

—— **Registration.**

Regulation No. 40, Part 1, requires a statement of registration by persons, corporations, etc., engaged in negotiating, making, or recording sales or transfers of shares of stock and other like securities; record of statement of registration to be kept by collector who must issue certificate of registration to be posted in place of business. (T. D. 2608; Nov. 30, 1917.)

—— **Returns.**

Clearing houses and persons engaged wholly or partly in buying, selling, or transferring shares of stock, required to make returns showing specified data and information; substitute returns. (T. D. 2608; Nov. 30, 1917.)

—— **Stamp sales.**

Stamps shall be sold only by collectors, their deputies, an assistant treasurer, or other designated United States depositary; State agents requisitions for stamps; records; kind and color of stamps. (T. D. 2741; June 25, 1918.)

TRANSPORTATION.

Alcohol—Losses in transit.

Tanks and tank cars used in shipment of alcohol to denaturing bonded warehouses required to be secured with certain seal locks, and vents or removable portions of car not so locked must be wired and sealed with "Tyden" seals, consecutively numbered, etc.; certificates and monthly reports of gaugers; necessary that locks and seals be intact in order to secure allowance for losses in transit. (T. D. 2746; July 10, 1918.)

Alcoholic liquors shipped into "dry" territory.

Instruction to revenue officers as to duties in connection with shipments in violation of section 240 of the Criminal Code; description; baggage; interstate shipments; seizures; reports. (T. D. 2437; Jan. 19, 1917.)

Distilled spirits—Export.

Alcohol or other distilled spirits of not less than 180° proof may be drawn from receiving cisterns at any distillery or from storage tanks in distillery warehouse into tanks or tank cars for export from United States. (T. D. 2368; Sept. 11, 1916.)

Monthly report of spirits withdrawn from receiving cisterns required to be made on supplemental Form 94A; contents. (T. D. 2368; Sept. 11, 1916.)

Bonded carriers to which shipments of spirits in tanks or tank cars are delivered for transportation for export required to procure certain seals for securing cars for use until such time as Commissioner of Internal Revenue may adopt a suitable seal; ordering, numbering, and affixing of seals; duty of collector of customs where seals are found to be intact at frontier point; duties of customs inspector where seals are found to be broken or tampered with. (T. D. 2368; Sept. 11, 1916.)

Each tank or tank car will be regarded as an original package, and an export stamp, to be procured by the shipper, will be affixed to each such tank or tank car. (T. D. 2368; Sept. 11, 1916.)

Applications for withdrawal of alcohol or other distilled spirits for exportation in tanks or tank cars and bonds covering tax on spirits to be withdrawn will be same as for spirits contained in original packages, except that in distributing the spirits the serial number of the storage tank will be given, or if withdrawal is to be made direct from receiving cistern application and bond will so state. (T. D. 2368; Sept. 11, 1916.)

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Distilled spirits—Export—Continued.

When alcohol or other distilled spirits are to be withdrawn from distillery bonded warehouse free of tax for export in tanks or tank cars, metal storage tanks must be provided in such warehouse to be constructed and arranged with proper pipe connections and suitable weighing tanks, as prescribed in Regulations No. 30; when withdrawals are to be made direct from receiving cisterns into tanks or tank cars, storage tanks need not be provided in such warehouse, in which case the weighing tanks will be located in the distillery cistern room. (T. D. 2368; Sept. 11, 1916.)

Exportation of alcohol or other distilled spirits in tanks or tank cars restricted to shipments by railroad destined for points in contiguous foreign territory. (T. D. 2368; Sept. 11, 1916.)

Gaugers required in making up Form 59, reporting spirits withdrawn from warehouse for export upon original gauge to enter in proper columns complete data as to each package appearing in Forms 59 reporting the entry gauge; when such spirits are shipped for export in cars sealed with "U. S. C. in bond," seals, gauger will prepare separate Form 59 for packages shipped in each car, and serial numbers of seals will also be stated in Form 206, together with serial numbers of packages; bills of lading for each car required to have seal numbers noted thereon. (T. D. 2473; Apr. 2, 1917.)

—— Forfeiture of vehicle used.

Nonparticipation of owner of automobile in its use in transporting distilled spirits upon which the tax had not been paid is no bar to proceeding in rem for its forfeiture. (T. D. 2776; Dec. 11, 1918.)

—— Loss.

Claims for remission of tax on spirits lost in transit for export not required where spirits are shipped in sealed cars and the seals on arrival of cars are found intact, and where loss reported does not exceed 4 wine gallons as to any one package, provided average loss does not exceed 2 wine gallons per package as to all packages gauged; requisites of application for relief where loss reported exceeds amount stated; certificate setting forth whether spirits were insured in excess of market value thereof exclusive of tax; regulations applicable to spirits lost when shipped in unsealed cars, except that loss in excess of 1 proof gallon per package will be regarded in such cases as excessive. (T. D. 2461; Mar. 16, 1917.)

Estate taxes.

Ruling that local agent, representative, etc., may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until either tax due has been paid or ancillary letters have been taken out or otherwise provision has been made for satisfaction of tax lien does not apply to carriers of property of nonresident decedent while such property is in their charge for purpose of transit. (T. D. 2454; Feb. 28, 1917.)

Excise taxes—Boats.

See "Excise Taxes."

Freight charges.

If articles are sold at factory and freight charges to point of delivery are paid by buyer as specific item, or if they are sold delivered at sum less freight charges to be paid by purchaser, such charges need not be included as part of price of goods; but if manufacturer sells goods at delivered price and himself pays the freight, he may not make any deduction on account of inclusion in price of freight charges. (T. D. 2719; Art. III.)

Excursion boats—Admission charges to dances.

Charges of excursion boats providing opportunity for dancing are subject to tax imposed by section 700 of act of October 3, 1917, where such charges exceed the usual or reasonable rates for transportation furnished. (T. D. 2681; Mar. 26, 1918.)

Income taxes—Information as to freight bills.

Bills paid for freight do not require reports of information. (T. D. 2670; Mar. 11, 1918.)

Narcotics.

When sale of express or freight package containing narcotic drugs is to be made, collector of district should be notified sufficient length of time in advance to permit detail by him of officer to inspect packages and identify such as contain narcotic

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Narcotics—Continued.

drugs; revenue officer must be present at sale to see that packages are sold to those persons only who are registered under Federal law or to officers of Federal, State, or municipal Governments exempt from its provisions; purchaser must at time of purchase make supplemental inventory in duplicate of drugs coming into his possession, he to retain original for file with his order forms and forward duplicate to collector who is required to notify Internal Revenue Bureau when such transactions take place and furnish name and address of purchaser.) (T. D. 2712; May 13, 1918.)

Stamp taxes—Drafts with bills of lading attached.

Ordinary sight draft with bill of lading attached is not taxable, but draft expressed to be payable at sight "on arrival of car," or containing memorandum to hold until arrival of car is; sight draft accompanied by instructions outside the instrument, as "Do not present until arrival of car," or some such memorandum, is not taxable. (T. D. 2682; Mar. 26, 1918.)

Because of the constitutional restriction that no tax or duty shall be laid on articles exported from any State, drafts with bills of lading attached covering goods in course of exportation are not subject to the tax. (T. D. 2682; Mar. 26, 1918.)

—— Passage tickets.

Passage tickets sold in United States from Hongkong to Vancouver, not sold as part of round-trip or through ticket from a port in the United States, Canada, or Mexico, are not subject to stamp tax imposed by section 807, Schedule A, paragraph 10, act of October 3, 1917. (T. D. 2795; Feb. 26, 1919.)

Passage tickets issued to United States Government and foreign Government officials, employees, and military and naval forces, as well as officials of States and their political subdivisions, traveling in course of duty on vessels operated privately or by any Government, are not subject to stamp tax imposed by subdivision 10 of Schedule A, section 807, of act of October 3, 1917; passage tickets issued to private individuals, traveling on vessels operated privately or by any Government are taxable. (T. D. 2676; Mar. 18, 1918.)

Stamp tax provided for by subdivision 10 of Schedule A, section 807, of act of October 3, 1917, is imposed on cost of a one-way or round-trip ticket for each passenger sold or issued in United States for passage by any vessel from port in United States, Canada, or Mexico, to port or place not in United States, Canada, or Mexico, provided cost of vessel's proportion exceeds $10; if passage be paid on through, one-way, or round-trip ticket, involving transportation partly by rail and partly by water, tax applies to that proportion of amount paid which accrues to vessel; table showing vessel's proportion of selling price of each ticket. (T. D. 2676; Mar. 18, 1918.)

Passage tickets issued to United States Government and foreign government officials, employees, and military and naval forces, as well as officials of States and their political subdivisions, traveling in the course of their duty on vessels operated privately or by any government are not taxable; passage tickets issued to private individuals traveling on vessels operated privately or by any government are taxable. (T. D. 2676; Mar. 18, 1918.)

Taxes on passage tickets must be paid in adhesive internal-revenue stamps, to be furnished by purchasers; such stamps must be affixed to the portion of the ticket or on the order, covering the vessel passage, and "the person, corporation, partnership, or association using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used." (T. D. 2676; Mar. 18, 1918.)

Wines.

Shipper required to make bill of lading in triplicate, two copies to be filed with collector of district from which wines are shipped, with uncanceled stamps of required denominations affixed to one of such copies; bill of lading to which uncanceled stamps are attached will then be checked with maker's or dealer's monthly statement, and, together with uncanceled stamps, will be forwarded by collector by registered mail to Commissioner of Internal Revenue at close of each month; collector required to mail one copy of bill of lading to collector of district to which tank cars are consigned, noting thereon that appropriate stamps have been received in his office, and third copy of bill will be sent by shipper to consignee after noting thereon that appropriate stamps were forwarded to collector's office; collector of district to which cars are consigned will see that they are not released to consignee until he has received copy of bill of lading duly certified by collector of district

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Wines—Continued.

from which shipped, stating that proper stamps have been received in his office; label to be affixed to car will, in addition to prescribed marks, contain words "Tax paid"; shipments whether in bond or tax paid will be reported as separate items on Form 701 or 702, as case may be; wine shipped to other than bonded premises on which tax has not been paid by stamp will be seized and shipper thereof will be prosecuted under provisions of paragraph (f) of section 402 of the act of September 8, 1916. (T. D. 2474; Apr. 4, 1917. T. D. 2555; Oct. 25, 1917.)

Untax-paid wines can be lawfully shipped only from and to bonded premises. (T. D. 2387; Oct. 30, 1916.)

Wines in transit September 8, 1916, should be so inventoried by both shipper and receiver, tax in such cases to be assessed against shipper, but abated if paid by receiver. (T. D. 2387; Oct. 30, 1916.)

In case of shipment of wines free of tax from bonded premises established under section 402 of act of September 8, 1916, to bonded manufacturing warehouse to be manufactured into articles for export, proprietor must execute Form 703 in quadruplicate; on arrival of wines at port of entry manufacturer will report same to collector of customs, who will cause wines to be inspected and gauged and will certify receipt of wines on blue Form 703, returning one blue copy to collector of internal revenue and sending other to Commissioner; separate transportation bond covering tax on wines need not be executed; credit given bond (Form 699 or 699A) on receipt of certificate by collector of internal revenue from collector of customs. (T. D. 2738; June 20, 1918.)

TRANSPORTATION TAX.

Adjustment of taxes.

Officers, agents, and other employees of carriers, authorized, in adjusting overcharges and undercharges, to adjust taxed accordingly; adjustment of tax where, after collection of charge and tax, it is claimed that charge is entitled to exemption, not authorized; all adjustments must be recorded and reported and must be supported by such evidences as will substantiate correctness thereof, which evidences must be kept in respective offices through which adjustments are made. (T. D. 2676; Mar. 18, 1918.)

Charges taxable—Fractional part of cent.

In computing amount of tax to be paid under section 500 of the act of October 3, 1917, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent; no tax shall apply to any consignment of freight, the charges for which are 16 cents or less. (T. D. 2676; Mar. 18, 1918.)

—— General rule.

Charges in respect of which taxes, under subdivisions (a), (b), (c), and (d) of section 500 of the act of October 3, 1917, must be assessed are all charges for transportation collected under tariffs filed or concurred in by carrier making charges with a Federal or State regulating authority, provided, however, that if a carrier has not filed or concurred in such tariffs, all charges collected by such carrier for transportation are taxable. (T. D. 2676; Mar. 18, 1918.)

Collection of charges—Records.

Records of carriers shall be so kept as to show application of tax imposed by section 500 of the act of October 3, 1917, to each consignment of property, tickets sold, fare collected, or other individual transaction; should any payment be exempt under section 502 or should tax be collectible by carrier other than one furnishing the services or facilities, notation shall be made on records of carrier furnishing services or facilities, indicating reason for not collecting such tax. (T. D. 2676; Mar. 18, 1918.)

Collection of taxes.

All taxes imposed by section 500 of the act of October 3, 1917, shall, as and when the charges are collected, be paid to and collected by the officers, agents, or other employees of the carrier who collect such charges. (T. D. 2676; Mar. 18, 1918.)

Definition—"Carrier."

The word "carrier," as used in Title V of the act of October 3, 1917, means every person, corporation, partnership, or association who or which, for hire, furnishes any of the transportation services or facilities described or referred to in subdivisions (a), (b), (c), and (d) of section 500; person, corporation, etc., engaged in logging,

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Definition—"Carrier"—Continued.

manufacturing, or mining, or any other business, furnishing any of the services referred to in such subdivisions, for hire, for account of any other person, corporation, etc., is a carrier within the meaning of Title V. (T. D. 2676; Mar. 18, 1918.)

—— "Transportation."

The word "transportation," as used in Title V of the act of October 3, 1917, means the movement of persons and property by a carrier, including all services and facilities rendered, furnished, or used in connection with such movement by or on behalf of a carrier; it includes receipt, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, trimming of cargo in vessels, wharfage, handling of property transported, feeding and watering live stock, and all other incidental services and facilities, but does not include cartage or passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

Excise tax on boats.

Imposition of transportation tax for persons transported by boat is not conclusive that boat is used for trade so as to be exempt from tax imposed by section 603 of act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Express transportation—Application of tax.

Tax imposed by subdivision (b) of section 500 of act of October 3, 1917, applies whether package, parcel, or shipment be transported by rail, water, mechanical motor power or other means of conveyance; if facilities of railroad company on line of which express company operates be necessary for use of latter company, and if such latter company, under contract, transports commodities necessary to maintain or operate such facilities, and express company makes no charge for transportation, charges which, but for such arrangement, would have accrued on such transporation, are exempt from tax. (T. D. 2676; Mar. 18, 1918.)

—— Corpses.

Where corpse is transported by express, express tax, and not tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies. (T. D. 2676; Mar. 18, 1918.)

—— Freight service combined.

When property is transported partly by freight and partly by express, the 3 per cent tax applies on amount paid for freight movement, and tax of 1 cent for each 20 cents or fraction thereof applies on amount paid for express movement; carrier collecting total transportation charges shall collect, report, and pay total tax due. (T. D. 2676; Mar. 18, 1918.)

—— Refund of tax.

Procedure to be observed in filing claims for refund of transportation tax based on ground that tax was collected on property in process of exportation, stated. (T. D. 2727; June 5, 1918.)

Foreign Governments.

Amounts paid by foreign Governments for transportation services are subject to the taxes imposed by section 500 of the act of October 3, 1917. (T. D. 2785; Jan. 23, 1919.)

Freight transportation—Accrual of tax.

All amounts paid for transportation completed on or after November 1, 1917, are subject to tax, but where shippers had credit arrangements with carriers prior to November 1, 1917, under which property was shipped prepaid prior to that date, charges not being actually paid until after such date, tax does not apply to amounts so paid, nor does tax apply to amounts paid on or after November 1, 1917, or transportation completed prior to that date. (T. D. 2676; Mar. 18, 1918.)

—— Amount of charges taxable.

Where any taxable charge is collected in addition to road haul, water haul, or road-and-water haul charge, tax imposed under section 500 of act of October 3, 1917, applies on total amount collected by carrier, consisting of the road haul, water haul; or road-and-water haul, charge plus all taxable charges collected in addition thereto. (T. D. 2676; Mar. 18, 1918.)

No tax imposed by section 500 of the act of October 3, 1917, shall apply to any consignment of freight the charges for which are 16 cents or less. (T. D. 2676, Mar. 18, 1918.)

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Freight transportation—Continued.

—— **Basis of computation of tax.**

In cases falling within section 501 of act of October 3, 1917, basis of computation of tax is current lawful rates of carrier, and, in absence thereof, current lawful rates of carriers for like service; if basis of tax can not be readily determined in manner stated, facts should be forthwith reported to Commissioner of Internal Revenue for determination of basis. (T. D. 2676; Mar. 18, 1918.)

—— **Circus trains.**

Where a lump-sum charge is made for transportation of circus train, which carries both property and persons, 3 per cent tax applies to such charge; if advance passenger transportation is included in such lump-sum charge, the 3 per cent tax applies to such portion of charge as represents charge for advance passenger transportation, and 3 per cent tax applies to balance of such charge. (T. D. 2676; Mar. 18, 1918.)

—— **Collection charges.**

When a charge is made by a transportation company for collecting from a consignee the amount due on a C. O. D. shipment, the collection service is not a transportation service and is not subject to the transportation tax. (T. D. 2782; Dec. 24, 1918.)

—— **Collection of tax.**

Whenever one carrier collects charges for freight transportation performed in part by or on behalf of another carrier or carriers, such carrier shall collect tax applicable to such taxable charge or charges and return and remit to proper collector of internal revenue the total tax collected; whenever a charge, in connection with a terminal or water service, is paid by one carrier, acting for the consignor or consignee, to another carrier, tax applicable shall be paid by former carrier to latter carrier, who shall return and remit the same. (T. D. 2676; Mar. 18, 1918.)

—— **Commodities for use of carrier as carrier.**

Effect of subdivision (a) of section 501, act of October 3, 1917, is to exempt from tax all transportation charges made by, or which would accrue to, a carrier, were such charges made by that carrier on all materials, supplies, or other commodities transported, which are necessary for the carrier's use in the conduct of its business as such carrier and intended to be or having been so used; fact that all or part of capital stock of corporation is owned by another corporation does not affect application of sections 500 and 501 to each corporation as an entity; tax applies to charges made by or which would accrue to a carrier were such charges made on all commodities transported for another carrier, even though they may be necessary for use of such other carrier in conduct of its business as such, subject, however, to certain qualifications. (T. D. 2676; Mar. 18, 1918.)

When a company charters boats for a stated period of time and transports its own commodities for its own use and furnishes no transportation facilities to others, the amounts paid for chartering such boats are not subject to the transportation tax. (T. D. 2782; Dec. 24, 1918.)

—— **Corpses.**

Where corpse is transported by freight, freight tax and not tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies. (T. D. 2676; Mar. 18, 1918.)

—— **Credentials.**

Credentials referred to on margin of exemption certificates are such papers, documents, or other evidences as will reasonably show officer, agent, or other employee collecting transportation charge; that officer or employee issuing such certificate is an officer or employee of the Government on whose behalf certificate is issued. (T. D. 2676; Mar. 18, 1918.)

—— **Domestic shipment passing through foreign country.**

Where consignment having both origin and destination within United States passes out of United States on its journey, gross transportation charges from point of origin to final destination are subject to tax imposed by section 500 of act of October 3, 1917. (T. D. 2676; Mar. 18, 1918.)

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Freight transportation—Continued.

—— Duplication of tax.

Where any taxable charge is included in the road haul, water haul, or road-and-water haul charge applying to any consignment, tax applies to, and shall be collected on, total amount collected, and no separate or additional tax shall be collected on taxable amounts included therein. (T. D. 2676; Mar. 18, 1918.)

—— Evidences of right to exemption.

Ways in which right to exemption, under section 502 of the act of October 3, 1917, from tax on amounts paid for transportation of property shall be evidenced, stated. (T. D. 2676; Mar. 18, 1918.)

—— Exemption certificates.

Standard form of exemption certificate for use of officers or employees of Federal Government, stated; forms will, on request, be furnished by Treasury Department to officers and employees of Federal Government entitled thereto; certificate must be delivered to carrier by person paying charges when charges are paid; carriers required to record and file certificates. (T. D. 2676; Mar. 18, 1918.)

—— Exports.

Amounts paid for transportation of property in course of exportation to foreign ports or places are exempt from tax imposed under section 500 of act of October 3, 1917; conditions under which property may be deemed to be in course of exportation, stated; if, when property is deliverd to carrier, it appears that goods are in course of exportation, no tax shall be collected on amounts of any otherwise taxable charges prepaid upon such property; tax must be collected as and when transportation charges are collected, if transportation charges be billed collect, or upon delivery of consignment if charges be prepaid. (T. D. 2676; Mar. 18, 1918.)

Adjustment of tax by carrier on ground that charge is exempted by reason of exportation is not authorized after collection of charge and tax. (T. D. 2676; Mar. 18, 1918.)

Procedure to be observed in filing claims for refund of transportation tax based on ground that tax was collected on property in process of exportation, stated. (T. D. 2727; June 5, 1918.)

—— Express companies.

When property is transported partly by freight and partly by express, the 3 per cent tax applies on amount paid for freight movement, and tax of 1 cent for each 20 cents or fraction thereof applies on amount paid for express movement; carrier collecting total transportation charges shall collect, report, and pay total tax due. (T. D. 2676; Mar. 18, 1918.)

If facilities of express company operating on line of railroad company be necessary for use of latter in conduct of its business as such, and if latter, under contract, transports commodities necessary to maintain or operate such facilities, such commodities being intended to be or having been so used, charges which, but for such arrangement, would have accrued on such transportation, are exempt from tax. (T. D. 2676; Mar. 18, 1918.)

Where express company pays a switching charge to a rail carrier for switching express cars, and amount so paid is not passed on to the shipper, but is absorbed by the express company in its express rate, amount so paid is not subject to tax imposed by section 500 (a) of the act of October 3, 1917. (T. D. 2782; Dec. 24, 1918.)

—— Foreign shipment passing through United States.

Tax imposed under section 500 of the act of October 3, 1917, does not apply to property passing through United States from one foreign port or place to another, but if such property, while so passing through United States, be reconsigned to a destination within United States, tax applies to transportation charges thereon from point or place of entry to such destination. (T. D. 2676; Mar. 18, 1918.)

—— Free transportation.

Tax imposed by sections 500 and 501 of act of October 3, 1917, applies to transportation by carrier of property belonging to or for personal use of any of its officers, agents, or employees, even though such property be transported free of charge. (T. D. 2676; Mar. 18, 1918.)

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Freight transportation—Continued.

—— Imports.

Tax imposed under section 500 of act of October 3, 1917, applies to charges which accrue on property imported into United States from port of entry to destination within United States, but tax does not apply to any payment of charges on property moving on a through bill of lading from a point in Canada or Mexico to a point in the United States; such tax shall be collected as and when transportation charges are collected, if such charges be collected within United States, and upon delivery of consignment, if charges be prepaid outside the United States, and not paid at port of entry. (T. D. 2676; Mar. 18, 1918.)

—— In-transit privileges.

Tax on charges in connection with in-transit privileges must be collected on charges to transit point at time charges are collected, and whatever basis of readjusting charges is used at time of reshipment or at destination such tax must be collected by carrier adjusting charges as remains due upon net taxable charges assessed on shipment from point of origin to destination, including charges for in-transit privileges. (T. D. 2676; Mar. 18, 1918.)

—— Logging companies transporting for hire.

Where a person, corporation, partnership, or association is engaged in logging, and, for account of himself or itself, furnishes any of the services or facilities decribed or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and, at times, for hire, furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

—— Lump-sum Government contracts.

Where contractor does work for the Government, contract price of which is a lump sum, exemption provided for by section 502 of act of October 3, 1917, does not apply to amounts paid for transportation of property used or to be used by the contractor in connection with the work. (T. D. 2676; Mar. 18, 1918.)

—— Manufacturing companies transporting for hire.

Where a person, corporation, partnership, or association, is engaged in manufacturing, and, for account of himself or itself, furnishes any of the services or facilities described or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and, at times, for hire, furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

—— Milk.

Amounts paid for transportation, other than by express of milk, are subject to tax of 3 per cent; whenever two or more tickets for transportation of commodities are sold in book form or in bulk tax applies to aggregate amount paid for such tickets. (T. D. 2676; Mar. 18, 1918.)

—— Mining companies transporting for hire.

Where a person, corporation, partnership, or association is engaged in mining, and, for account of himself or itself, furnishes any of the services or facilities described or referred to in subdivisions (a), (b), (c), or (d) of section 500 of the act of October 3, 1917, and, at times, for hire, furnishes any of such facilities for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier, and tax applies as respects all commodities so transported, whether for his or its account or for the account of others. (T. D. 2676; Mar. 18, 1918.)

—— Newspapers.

Amounts paid for transportation, other than by express, of newspapers, are subject to tax of 3 per cent; whenever two or more tickets for transportation of commodities are sold in book form or in bulk tax applies to aggregate amount paid for such tickets. (T. D. 2676; Mar. 18, 1918.)

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Freight transportation—Continued.

—— **Perishable property.**

If perishable consignment be sold under emergency conditions for benefit of whom it may concern, net amount realized therefrom shall be considered transportation charge, and 3 per cent tax shall apply to such amount and be paid by the purchaser; provided, however, that if such amount be in excess of actual transportation charges, tax shall not apply to such excess. (T. D. 2676; Mar. 18, 1918.)

—— **Porto Rico, Philippines, etc.**

Transportation of property by water from port of the United States to Porto Rico, Philippine Islands, the Virgin Islands, and the Canal Zone is not subject to transportation tax imposed by section 500 of act of October 3, 1917; rail transportation of property from interior point in United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal revenue taxes by reason of special acts of Congress; such transportation of property destined to the Canal Zone is not exempt. (T. D. 2795; Feb. 26, 1919.)

—— **Records of taxes collected.**

Records of carriers shall be so kept as to show application of tax imposed by section 500 of the act of October 3, 1917, to each consignment of property; should any payment be exempt under section 502, or should tax be collectible by any carrier other than one furnishing services or facilities, notation shall be made on records of carrier furnishing such services or facilities, indicating reason for not collecting tax. (T. D. 2676; Mar. 18, 1918.)

—— **Refund of tax.**

Procedure to be observed in filing claims for refund of transportation tax based on ground that tax was collected on property in process of exportation, stated. (T. D. 2727; June 5, 1918.)

—— **Sales of consignments.**

Net amount realized from sale of consignment, refused or unclaimed, or if carload of property or a perishable consignment sold under emergency conditions, for benefit of whom it may concern, shall be considered transportation charge, and 3 per cent tax shall apply to such amount and be paid by purchaser; provided, however, that if such amount be in excess of actual transportation charges accruing on such consignment, tax shall not apply to such excess. (T. D. 2676; Mar. 18, 1918.)

—— **Services taxable.**

Tax imposed under section 500 of act of October 3, 1917, applies to each and every service and facility rendered by or on behalf of carriers in connection with transportation of property by freight from one point in the United States to another. (T. D. 2676; Mar. 18, 1918.)

—— **Telegraph or telephone lines.**

If telegraph or telephone line along railroad be necessary for use of railroad company in conduct of its business as such, and if it, under contract, transports commodities necessary to maintain or operate such telegraph or telephone lines, such commodities being intended to be or having been so used, charges which, but for such arrangement, would have accrued on such transportation, are exempt from tax. (T. D. 2676; Mar. 18, 1918.)

—— **Terminals or yards.**

If terminal or yard for use of one or more railroads be operated under management of terminal or switching company, or of such railroad or railroads, and user cost therefor to them be based on either gross or net costs of operation, commodities necessary in operation thereof shall be considered as commodities necessary for use of such carriers thereof, and tax does not apply; if terminal or yard be operated under its own management for profit, or if fixed rental be charged for services rendered by terminal or switching company, tax applies to transportation charges made by tenants or users on such commodities. (T. D. 2676; Mar. 18, 1918.)

Whenever a taxable charge, in connection with a terminal service, is paid by one carrier, acting for consignor or consignee, to another carrier, tax applicable shall be paid by former carrier to latter carrier, who shall return and remit same. (T. D. 2676; Mar. 18, 1918.)

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Freight transportation—Continued.

—— Water service.

Whenever a taxable charge, in connection with a water service, is paid by one carrier, acting for consignor or consignee, to another carrier, tax applicable shall be paid by former carrier to latter carrier, who shall return and remit same. (T. D. 2676; Mar. 18, 1918.)

Governmental exemption—Adjustment of tax.

Adjustment of tax by carrier on ground that charge is exempted by reason of governmental use is not authorized after collection of charge and tax. (T. D. 2676; Mar. 18, 1918.)

—— Certificates.

Standard form of exemption certificate for use of Federal Government stated; delivery to conductor of train; credentials referred to on margin are such papers, documents, or other evidences as will reasonably show employee collecting charge that officer or employee issuing certificate is officer or employee of Government; certificates will, on request, be furnished by Treasury Department; certificate must be delivered to carrier by person paying charges when charges are paid; carriers to record and file certificate. (T. D. 2676; Mar. 18, 1918.)

—— Cost-plus contracts.

Where contract price of work for the Government is cost plus certain percentage, amount received by carrier for transportation of property used or to be used by contractor in such work falls within exemption from tax imposed by section 500 of act October 3, 1917; certificate specified in Regulations No. 42, article 15, must be used and must be signed by a Government officer or employee, certificate signed by contractor not being sufficient. (T. D. 2742; July 1, 1918.)

Exemption may be claimed under section 500 of act October 3, 1917, on amounts paid for transportation of persons employed by contractor working for Government under cost-plus contract, where transportation charge of an employee is an item in the cost of the work, and hence will be finally paid by the Government; form of exemption certificate. (T. D. 2742; July 1, 1918.)

—— Evidences of right to exemption.

Ways in which right to exemption under section 502 of the act of October 3, 1917, from tax on amounts paid for transportation of property or persons shall be evidenced, stated. (T. D. 2676; Mar. 18, 1918.)

—— Lump-sum Government contracts.

Where contractor does work for Government, contract price of which is a lump sum, exemption does not apply to amounts paid for transportation of property used or to be used by contractor in connection with work. (T. D. 2676; Mar. 18, 1918.)

—— Parlor or sleeping cars.

Exemption provided for by section 502 of act of October 3, 1917, applies to amounts paid for accommodations in parlor or sleeping cars. (T. D. 2676; Mar. 18, 1918.)

—— Persons exempt.

Exemption may be claimed only where person transported is incurring charge in performance of official duties; thus, charges paid by soldiers traveling on furloughs at their own expense, are not exempt; fact that amount of mileage or other allowance paid or made by Government for transportation of officer or employee in performance of official duties may be more than sufficient to reimburse him does not prevent application of exemption provision. (T. D. 2676; Mar. 18, 1918.)

—— Refund of tax.

Procedure to be observed in filing claims for refund of transportation tax based on ground that transportation service was rendered an exempt governmental agency, stated. (T. D. 2727; June 5, 1918.)

—— Requests for transportation.

Right to exemption under section 502 of the act of October 3, 1917, from tax on amounts paid for transportation of persons required to be evidenced by a standard form of transportation request as prescribed and used by the Federal and State Governments, and carriers shall, in accepting such request, see that it is duly filled out; this evidence to be subject to inspection by accredited representatives of the Commissioner of Internal Revenue. (T. D. 2676; Mar. 18, 1918.)

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Governmental exemption—Continued.

—— Soldiers.

Transportation charges paid by soldiers traveling on furloughs at their own expense are not exempt from taxation, under section 502 of act of October 3, 1917. (T. D. 2676; Mar. 18, 1918.)

—— Vessel accommodations.

Exemption provided for by section 502 of act of October 3, 1917, applies to amounts paid for accommodations on vessels. (T. D. 2676; Mar. 18, 1918.)

—— War Loan Organization.

Amounts paid for transportation by the War Loan Organization, an agency of the United States Government, out of Government funds, are not subject to the transportation tax. (T. D. 2782; Dec. 24, 1918.)

Oil transportation—Application of act.

Where a person, corporation, partnership, or association, engaged in business, for the account of himself or itself, transports oil by pipe line, and, at times, for hire, furnishes such facility for the account of any other person, corporation, partnership, or association, the one furnishing such facility is a carrier within the meaning of the word as used in Title V of the act of October 3, 1917, and tax imposed by section 501 applies, whether for his or its account or for the account of others; when facility is used exclusively for transporting property of proprietor, and not for hire, proprietor, is not a carrier. (T. D. 2676; Mar. 18, 1918.)

—— Computation of tax.

Where proprietor or pipe line, at times, for hire, transports oil of another, basis of computation of tax shall be current lawful rates of carrier and, in absence thereof, current lawful rates of carriers for like service; if basis of tax can not be readily determined in manner stated, facts should be forthwith reported by carrier to Commissioner of Internal Revenue for his determination. (T. D. 2676; Mar. 18, 1918.)

—— Definition.

The word "oil," as used in subdivision (d) of section 500 of the act of October 3, 1917, means crude petroleum and such of its products as may be transported by pipe line. (T. D. 2676; Mar. 18, 1918.)

Passenger transportation—Adjustment of taxes.

All redemptions or other adjustments, whether by way of refund on mileage book covers or otherwise, are to be treated as adjustments of overcharges, or undercharges, as case may be. (T. D. 2676; Mar. 18, 1918.)

—— Amount of charge.

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply where amount paid for transportation is 35 cents or less. (T. D. 2676; Mar. 18, 1918.)

—— Application of tax.

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for transportation of persons from point in United States to another point therein, even though persons pass out of United States in course of transportation, from point in United States to point in Canada or Mexico, where ticket is sold or issued in United States, from point in United States to another point therein, or—where ticket is sold or issued in United States—from point in United States to point in Canada or Mexico when transportation is part of through transportation to or from foreign country other than Canada or Mexico; tax applies to each and every service and facility except passengers' meals and hotel accommodations, where transportation in connection with which service or facility is rendered is subject to tax. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax does not apply to amounts paid for transoprtation of persons by carriers from last port touched in United States to foreign port other than Canadian or Mexican port; from point in Canada or Mexico to point in United States; from point in Canada to another point therein, and provided that such transportation be covered by tickets issued in Canada and be part of through transportation, even though person pass through United States in course of transpotration; from point in Mexico to another point therein, and provided transportation be covered

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Passenger transportation—Continued.

—— **Application of tax**—Continued.

by tickets issued in Mexico and be part of through transportation, even though persons pass through United States in course of transportation; from point in Canada to point in Mexico or vice versa, provided transportation be covered by tickets issued in Canada or Mexico, and be part of through transportation; where amount paid for transportation is 35 cents or less; where commutation or season tickets are for trips less than 30 miles; and where persons are carried free under Federal or State laws. (T. D. 2676; Mar. 18, 1918.)

—— **Cash fares.**

Where continuous transportation is secured by use of tickets in connection with cash fare, tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies provided lawful fare for such transportation exceeds 35 cents; tax applies to all cash fares paid on trains from point in United States to point in United States, Canada, or Mexico provided total cash fare for continuous journey exceeds 35 cents. (T. D. 2676; Mar. 18, 1918.)

—— **Chartered cars or trains.**

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to charge for chartered or special car or train, excluding sleeping, parlor, and private cars, for purpose of transporting persons, if such charge be a lump sum or on a per capita basis. (T. D. 2676; Mar. 18, 1918.)

In case of a chartered sleeping, parlor, or private car, the amount paid for the haul is subject to the 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, and balance of charges, exclusive of meals, is subject to the 10 per cent tax. (T. D. 2676; Mar. 18, 1918.)

—— **Circus trains.**

Where a lump-sum charge is made for transportation of circus train, which carries both property and persons, 3 per cent tax applies to such charge; if advance passenger transportation is included in such lump-sum charge, the 8 per cent tax applies to such portion of charge as represents charge for advance passenger transportation, and 3 per cent tax applies to balance of such charge. (T. D. 2676; Mar. 18, 1918.)

—— **Combination fares.**

Where continuous transportation is secured either by use of same or different kinds or classes of tickets or by use of such tickets in connection with cash fare, tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies, provided lawful fare for such transportation exceeds 35 cents. (T. D. 2676; Mar. 18, 1918.)

—— **Commutation tickets.**

The term "commutation or season tickets," as used in section 500, subdivision (c), of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for commutation books purchased in United States, calling for accommodations in parlor or sleeping cars or on vessels, in which event tax shall be paid as and when collections are made or amount paid for such books; if books be purchased outside the United States, tax applies to amount paid for coupons lifted, calling for accommodations between or from points in United States, and tax shall be collected as and when coupons are lifted. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply to amounts paid for transportation of persons in case of commutation tickets for trips less than 30 miles. (T. D. 2676; Mar. 18, 1918.)

Commutation tickets sold and partially used before November 1, 1917, are not taxable if presented after that date for remainder of journey or journeys called for. (T. D. 2676; Mar. 18, 1918.)

—— **Corpses.**

Amount paid for transportation of corpse is subject to tax imposed by subdivision (c) of section 500 of act of October 3, 1917, if corpse be transported on passenger ticket or on excess-baggage check. (T. D. 2676; Mar. 18, 1918.)

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Passenger transportation—Continued.

—— **Credentials.**

Credentials referred to on margin of exemption certificates are such papers, documents, or other evidences as will reasonably show officer, agent, or other employee collecting transportation charge, that officer or employee issuing such certificate is an officer or employee of the Government on whose behalf certificate is issued. (T. D. 2676; Mar. 18, 1918.)

—— **Evidences of payment of tax.**

Payment of 8 per cent tax upon tickets bought but not used prior to November 1, 1917, shall be evidenced by indorsement thereon by and over signature and title of employee collecting ticket, showing payment of tax. (T. D. 2676; Mar. 18, 1918.)

—— **Evidences of right to exemption.**

Ways in which right to exemption under section 502 of the act of October 3, 1917, from tax on amounts paid for transportation of persons shall be evidenced stated, (T. D. 2676; Mar. 18, 1918.)

—— **Excess baggage.**

Tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amount paid for transporting baggage in excess of free allowance, provided amount so paid exceeds 35 cents. (T. D. 2676; Mar. 18, 1918.)

—— **Exchange orders.**

Ticket for which exchange order issued in United States, Canada, or Mexico, is exchanged, deemed to be ticket sold and issued at point where exchange order was issued, but where order is issued outside United States, Canada, or Mexico, ticket for which exchange order is exchanged deemed to be ticket sold and issued at point where exchange is made; exchange order sold in United States for through transportation to point in United States, Canada, or Mexico, is subject to tax upon total amount of charges paid, even though order calls for exchange for another ticket in Canada or Mexico; tax applies to any additional amount paid in United States in connection with ticket or exchange order issued in Canada, Mexico, or any other foreign country. (T. D. 2676; Mar. 18, 1918.)

—— **Exempt persons.**

Exemption may be claimed only where person transported is incurring charge in performance of official duties as officer or employee of United States; thus, charges paid by soldiers traveling on furloughs at their own expense are not exempt; fact that amount of mileage or other allowance paid or made for transportation in performance of official duties may be more than sufficient to reimburse officer or employee for transportation payment does not prevent application of exemption provision of section 502 of act of October 3, 1917, to such payment; exemption applies to amounts paid as fares and to amounts paid for accommodations in parlor or sleeping cars or on vessels. (T. D. 2676; Mar. 18, 1918.)

—— **Exemption certificates.**

Standard form of exemption certificate for use of officers or employees of Federal Government stated; forms will on request be furnished by Treasury Department to officers and employees of Federal Government entitled thereto; certificate must be delivered to carrier by person paying charges when charges are paid; carriers required to record and file certificates. (T. D. 2676; Mar. 18, 1918.)

—— **Extra fares.**

Where extra fare for special services is charged in addition to transportation rate, 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies and shall be collected thereon; this provision applies to amounts paid for additional tickets purchased or fares paid for exclusive occupancy of drawing rooms, compartments, or sections in sleeping or parlor cars, or accommodations furnished on steamers. (T. D. 2676; Mar. 18, 1918.)

—— **Free transportation.**

The 8 per cent tax imposed by section 500 of the act of October 3, 1917, does not apply to amounts paid for transportation of persons by carriers where they are carried free under the provisions of Federal or State laws; the 10 per cent tax imposed by such section does not apply where accommodations in parlor or sleeping cars or on vessels are furnished free under the provisions of Federal or State laws. (T. D. 2676; Mar. 18, 1918.)

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Passenger transportation—Continued.

—— **Hotel accommodations.**

The word "transportation," as used in Title V of the act of October 3, 1917, does not include passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

Tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to each and every service and facility, except passengers' meals and hotel accommodations, rendered by or on behalf of carriers in connection with transportation of persons, where transportation in connection with which service or facility is rendered is subject to tax. (T. D. 2676; Mar. 18, 1918.)

—— **Meals.**

The word "transportation," as used in Title V of the act of October 3, 1917, does not include passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

Tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to each and every service and facility, except passengers' meals and hotel accommodations, rendered by or on behalf of carriers in connection with transportation of persons, where transportation in connection with which service or facility is rendered is subject to tax. (T. D. 2676; Mar. 18, 1918.)

—— **Mileage books.**

Provision of subdivision (c) of section 500 of act of October 3, 1917, relating to mileage books, applies whether book was purchsed in United States, Canada, or Mexico; manner of reporting and returning amounts collected; if book sold in United States prior to November 1, 1917, be presented for exchange ticket or on train for transportation, tax applies on sale value of coupons or scrip remaining in book, and shall be collected by employee to whom book is presented; 8 per cent tax applies to gross amount paid for book purchased on or after November 1, 1917, as and when collection is made therefor, and if evidence of right to exemption be delivered to carrier at time of purchase, book shall be stamped "Tax not paid"; when tax applies, and when it does not apply, to amount paid for coupons lifted from mileage books purchased in Canada or Mexico, stated. (T. D. 2676; Mar. 18, 1918.)

—— **Observation or composite cars.**

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amount paid for seats in observation or composite cars. (T. D. 2676; Mar. 18, 1918.)

—— **Parlor or sleeping cars.**

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for additional passenger tickets purchased or fares paid for exclusive occupancy of drawing rooms, compartments, or sections in sleeping or parlor cars. (T. D. 2676; Mar. 18, 1918.)

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amount paid for each drawing room or compartment in parlor or sleeping cars; in case of chartered car, the amount paid for the haul is subject to the 8 per cent tax, and balance of charges, exclusive of meals, is subject to 10 per cent tax; the 10 per cent tax applies to amounts paid for accommodations for use in connection with transportation between points in United States, or from point in United States to point in Canada or Mexico, whether payment be made in United States or elsewhere, and even though transportation be part of through transportation to or from foreign country other than Canada or Mexico; applicability of tax to amounts paid for commutation books, and to accommodations furnished free under Federal or State laws; where agent of one carrier in collecting amounts paid acts on behalf of any or all of several carriers, such agent shall collect taxes on total charges and remit to other carriers respective amounts, charges and taxes, collected on their behalf, such other carriers to return and pay such taxes. (T. D. 2676; Mar. 18, 1918.)

—— **Partial use of tickets.**

Employees collecting tickets must require payment of taxes on every ticket, excluding commutation and season tickets, sale date of which is prior to November 1, 1917, unless ticket and conditions under which it is presented show ticket has been used prior to November 1, 1917, for part of journey called for by it; return portion of round-trip ticket not subject to tax; tax does not apply to ticket with stop-over privileges presented for continuation of journey; commutation or season tickets not taxable if presented after November 1, 1917. (T. D. 2676; Mar. 18, 1918.)

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Passenger transportation—Continued.

—— Party tickets.

Eight per cent tax imposed by subdivision (c) of section 500 of the act of October 3, 1917, applies to total amount paid for party ticket. (T. D. 2676; Mar. 18, 1918.)

—— Penalties for failure to pay or collect tax.

Failure to pay tax by passenger, as well as failure to collect, report, and pay by carrier, subjects passenger and carrier to penalties. (T. D. 2676; Mar, 18, 1918.)

—— Prepaid orders.

When tax imposed by subdivision (c) of section 500 of act of October 3, 1917, is applicable to amounts paid for prepaid orders, calling for transportation and accommodations in sleeping and parlor cars and on vessels, or either of them, stated; ticket for transportation covered by prepaid order deemed sold and issued at point where initial carrier's transportation begins; where carrier or agency, in collecting amount paid for prepaid order, acts on behalf of either or all of several carriers, carrier or agency first referred to shall collect taxes on total charges as and when charges are collected, and remit charges and taxes to initial carrier issuing ticket, and initial carrier shall return and pay taxes. (T. D. 2676; Mar. 18, 1918.)

—— "Regular established line."

"Regular established line," as used in act of October 3, 1917, construed to mean a regularity of operation of transportation facilities by motor power between definite points; casual or intermittent transportation of passengers by automobile between two points would not constitute a regular established line; automobile that is merely for hire and which takes passenger to any point he directs does not constitute regular established line. (T. D. 2795; Feb. 26, 1919.)

—— Round-trip tickets.

Tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amount paid for, or applicable to, charge paid for round-trip ticket, providing such amount is in excess of 35 cents. (T. D. 2676; Mar. 18, 1918.)

If return portion of round-trip ticket sold before November 1, 1917, be presented for return journey, such return portion is not subject to tax. (T. D. 2676; Mar. 18, 1918.)

—— Sales of baggage.

Where baggage is refused or unclaimed and sold by carrier, net amount realized from sale shall be considered transportation charge, and 3 per cent tax shall apply to such amount and be paid by purchaser; provided, however, that if such amount be in excess of the actual transportation charges, tax shall not apply to such excess. (T. D. 2676; Mar. 18, 1918.)

—— Season tickets.

The term "commutation or season tickets," as used in section 500, subdivision (c), of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply to amounts paid for transportation of persons in case of season tickets for trips less than 30 miles. (T. D. 2676; Mar. 18, 1918.)

Season tickets sold and partially used before November 1, 1917, are not taxable if presented after that date for remainder of journey or journeys called for. (T. D. 2676; Mar. 18, 1918.)

—— Stop-over privileges.

If ticket with stop-over privileges sold before November 1, 1917, be presented for continuation of journey, tax imposed by subdivision (c) of section 500 of act of October 3, 1917, does not apply. (T. D. 2676; Mar. 18, 1918.)

—— "Trips less than 30 miles."

The phrase "for trips less than 30 miles," as used in subdivision (c) of section 500 of the act of October 3, 1917, in connection with commutation and season tickets, means for less than 30 constructive miles in instances where the rate for transportation is fixed on the constructive mileage. (T. D. 2676; Mar. 18, 1918.)

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Passenger transportation—Continued.

—— **Vessels.**

The 8 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, applies to amounts paid for accommodations furnished on steamers. (T. D. 2676; Mar. 18, 1918.)

The 10 per cent tax imposed by subdivision (c) of section 500 of act of October 3, 1917, includes amounts paid for compartments on vessels; where amount paid for transportation of persons to, through, or from United States, or for round-trip ticket, includes accommodations on vessels, entire amount paid is subject to the 8 per cent tax imposed by subdivision (c) of section 500 of the act of October 3, 1917; but where separate charge is made for seat, berth, or stateroom on vessel the 10 per cent tax shall be collected on such separate berth or stateroom charges, in addition to the 8 per cent tax on transportation; where agent of one carrier in collecting amounts paid for seats, berths, or staterooms on vessels acts on behalf of another or all of several carriers, such agent shall collect taxes on total charges and remit to other carriers respective amounts, charges, and taxes collected on their behalf, such other carriers to return and pay such taxes. (T. D. 2676; Mar. 18, 1918.)

When amounts paid in connection with steamship orders and tickets issued in exchange therefor are taxable, stated. (T. D. 2676; Mar. 18, 1918.)

—— **Zone system.**

If person pays or carrier collects fare for continuous journey at intervals in amounts of less than 36 cents, as in zone system, tax imposed by subdivision (c) of section 500 of act of October 3, 1917, must be collected on total charges from starting point to final destination of such person, if charges aggregate 36 cents or more. (T. D. 2676; Mar. 18, 1918.)

Payment of taxes.

All taxes imposed by section 500 of the act of October 3, 1917, shall be paid by the person, corporation, partnership, or association from whom or from which the carrier collects the charges for the services or facilities rendered. (T. D. 2676; Mar. 18, 1918.)

Penalties for failure to collect, pay, or report tax.

Penalties provided for by section 1004 of the act of October 3, 1917, for failure to collect, pay, or report the tax, etc., apply to each offense. T. D. 2676; Mar. 18, 1918.)

"Railroad system"—Definition.

The term "railroad system" as used in subdivision (b) of section 501 of the act of October 3, 1917, means two or more railroads and such other carriers as may be operated in conjunction therewith, all such railroads and other carriers being under one general operating management, and even though each such railroad or other carrier maintains its corporate identity. (T. D. 2676; Mar. 18, 1918.)

Records—Adjustment of taxes.

Officers, agents, and other employees of carriers authorized, in adjusting overcharges and undercharges, to adjust taxes accordingly; adjustment of tax where, after collection of charge and tax, it is claimed that charge is entitled to exemption, not authorized; all adjustments must be recorded and reported, and must be supported by such evidences as will substantiate correctness thereof, which evidence must be kept in respective offices through which adjustments are made. (T. D. 2676; Mar. 18, 1918.)

—— **Summaries of transactions.**

Officers, agents, and other employees of carriers shall cause to be assembled for each calendar month, at general offices of carriers, summaries showing aggregate taxes collected as well as summaries of all tax adjustments; such summaries shall show aggregate taxes of each class collected, as called for by Form 727, and total amount deducted for adjustments on account of overcharges as called for by such form, and difference between the two items shall be amount to be reported to collector. (T. D. 2676; Mar. 18, 1918.)

—— **Taxes collected.**

Records of carriers shall be so kept as to show application of tax imposed by section 500 of act of October 3, 1917, to each consignment of property, tickets sold, fare collected, or other individual transactions; should any payment for services or

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Records—Continued.

—— **Taxes collected**—Continued.

facilities of carriers be exempted, under section 502, from tax, or should tax be collectible by carrier other than one furnishing services or facilities, notation shall be made on records of carrier furnishing services or facilities indicating reason for not collecting such tax. (T. D. 2676; Mar. 18, 1918.)

Return and remittance of taxes.

On or before March 31, 1918, returns must be made and taxes remitted for month of November, 1917, and on or before March 31, 1918, and on or before last day of each succeeding month returns required by section 503 of act of October 3, 1917, must be made under oath, in duplicate, for third preceding month to collector of district in which principal office or place of business of carrier making return is located, and taxes collected during month covered by each such return, less tax adjustments during such month on account of overcharges must be remitted at time return is made. (T. D. 2676; Mar. 18, 1918.)

"State"—Definition.

The word "State," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns, and other municipalities. (T. D. 2676; Mar. 18, 1918.)

Summaries of tax collections, adjustments, etc.

Officers, agents, and other employees of carriers shall cause to be assembled for each calendar month, at general offices of carriers, summaries showing aggregate taxes collected as well as summaries of all tax adjustments; such summaries shall show aggregate taxes of each class collected, as called for by Form 727, and total amount deducted for adjustments, on account of overcharges, as called for by Form 727, and difference between the two items shall be amount to be reported to collector. (T. D. 2676; Mar. 18, 1918.)

"Territory"—Definition.

The word "Territory," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns, and other municipalities. (T. D. 2676; Mar. 18, 1918.)

"Transportation"—Definition.

The word "transportation," as used in Title V of the act of October 3, 1917, means the movement of persons and property by a carrier, including all services and facilities rendered, furnished, or used in connection with such movement by or on behalf of a carrier; it includes receipt, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, trimming of cargo in vessels, wharfage, handling of property transported, feeding and watering live stock, and all other incidental services and facilities, but does not include cartage or passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

"United States"—Definition.

The term "United States," as used in Title V of the act of October 3, 1917, means only the States, Alaska, Hawaii, and the District of Columbia. (T. D. 2676; Mar. 18, 1918.)

TREASURY DECISIONS.

Income taxes.

Treasury decisions promulgating rulings of internal revenue bureau become effective upon date of approval, unless otherwise stated therein; cases previously adjusted in contravention of law as pronounced in such decisions are subject to readjustment in accordance with the decision. (T. D. 2690; art. 38.)

TREASURY STOCK.

Definition.

Where treasury stock, defined to mean stock which had been previously issued by corporation, and which had been repossessed by it through purchase or otherwise, and then carried on its books as an asset, is resold at a price in excess of its cost upon repossession, such excess shall be returned as income for year in which resold; unissued stock retained by corporation for future sale will not be considered treasury stock, and when sold, no part of proceeds will be considered taxable income. (T. D. 2690; art. 98.)

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TREATING MONEY.

Income taxes—Deduction.

So-called "spending or treating money" actually advanced by corporations to their traveling salesmen to be used by them as part of expense incident to selling product is allowable deduction, but deduction is conditioned upon satisfactory showing that all allowance claimed was actually expended for and was an ordinary and usual expense incurred in selling the product or merchandise of the corporation. (T. D. 2690; art. 133.)

TRIPS LESS THAN 30 MILES.

Definition.

The phrase "for trips less than 30 miles," as used in subdivision (c) of section 500 of the act of October 3, 1917, in connection with commutation and season tickets, means for less than 30 constructive miles in instances where the rate for transportation is fixed on the constructive mileage. (T. D. 2676; Mar. 18, 1918.)

TRUCK FARMS.

Income-tax returns.

See "Farmers."

TRUSTS.

Massachusetts trusts—Capital stock tax.

So-called Massachusetts trusts are subject to tax imposed by act September 8, 1916. (T. D. 2750, art. 2, Appendix A; Aug. 9, 1918.)

—— Income taxes.

Organization under constitution of which individuals who are beneficially interested in various proportions in same property and hold assignable certificates representing their different interests therein, but who can claim no part of income of property as their income as distinguished from income of organization, commit control and management of such property, for profit, to trustees, free from their own immediate control or interference, except that they may act by majority in amount and interest for purpose of allowing extra compensation to trustees, filling vacancies in office of trustees or modifying terms of declaration of trust, is an "association" and taxable as such under Section II, G (a), of the act of October 3, 1913. (T. D. 2720; June 4, 1918, Ct. Dec.)

Where trustees hold shares of stock of corporation and real estate subject to lease, collecting dividends and rents, but otherwise doing no business, and distribute the income less taxes and similar expenses to holders of their receipt certificates, who have no control except right of filling vacancies among trustees and of consenting to modification of terms of trust, such trust is not subject to income tax as joint-stock association, under act of October 3, 1913, and trustees and cestui que trust are to be treated as fiduciaries and beneficiaries for purposes of taxation. (T. D. 2816; Apr. 2, 1919. Ct. Dec.)

—— Stamp tax on certificates of shares.

Tax imposed by act Oct. 3, 1917, on issue or transfer of capital stock applies to issue or transfer of certificates of shares in so-called Massachusetts trusts and other unincorporated associations. (T. D. 2752; Aug. 14, 1918.)

Voting-trust certificates—Stamp taxes.

Tax imposed by act October 3, 1917, on issue of capital stock does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previously outstanding. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of stock to or from voting trustees and to transfer of voting-trust certificates. (T. D. 2752; Aug. 14, 1918.)

TRUST COMPANIES.

Capital stock—Issue—Stamp taxes.

Tax imposed by act October 3, 1917, on issue of capital stock attaches to issue of stock of either corporation in addition to already existing stock upon merger of trust companies under sections 487–496 of New York banking law, but such tax does not attach to substitution of new certificates for certificates representing old stock of merging corporation. (T. D. 2752: Aug. 14, 1918.)

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Income taxes—Net income.

In case of banks and banking associations, loan or trust companies, interest paid within year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from gross income of such corporation. (T. D. 2690; art. 190.)

Special tax on bankers.

Capital, surplus, and undivided profits of trust company doing business as banker, invested in stocks, bonds, and securities, are treated as used and being in banking within the meaning of section 3 of the act of October 22, 1914, and the tax imposed is upon so much thereof as are used in the banking business. (T. D. 2460; Mar. 17, 1917. Ct. Dec.)

TRUST DEEDS.

Income taxes—Information at source.

Returns of information required, regardless of amount, in case of payments of interest upon bonds, mortgages, or deeds of trust, or other similar obligations of domestic or resident corporations, joint-stock companies, associations, and insurance companies, and in the case of foreign items; original ownership certificates, when duly filed, shall constitute and be treated as returns of information. (T. D. 2758; Oct. 2, 1918.)

—— Returns.

A deed of trust must be absolute so far as the conveyance of title is concerned and irrevocable by the donor, otherwise income from property in question will accrue to donor and must be accounted for by him. (T. D. 2690; art. 29.)

—— Withholding.

Withholding provisions of sections 9 (b) and (c) of the income tax law apply to normal income tax of citizens and resident aliens, only when derived from interest on bonds and mortgages, deeds of trust, or other similar obligations of corporations, associations, etc., which have a "tax-free covenant clause," regardless of amount and period of payment; on and after January 1, 1918, normal tax of 2 per cent imposed by the act of October 3, 1917, is the tax to be deducted and withheld from citizens or residents of the United States in accordance with section 9 (c). (T. D. 2690; art. 43.)

TRUST ESTATES.

Estate taxes.

Thirty-day notice (Form 705) must be filed, within 30 days after death of decedent whose estate is taxable, by trustees holding property conveyed during lifetime by decedent in contemplation of death or with intent to provide for others than decedent at or after decedent's death, regardless of date of instrument making conveyance, or date of possession by trustee, or date of vesting of right of survivors to possession or enjoyment at or after decedent's death. (T. D. 2454; Feb. 28, 1917.)

Income taxes—Exemptions.

When income is taxable to trustee, as in case, under present income tax law, of a trust income of which is accumulated for benefit of unborn or unascertained persons, trustee is regarded as owner of all bonds held in trust and the trust is entitled to exemption on account of such ownership; in such case subscription by trustee for bonds of Fourth Liberty Loan constitutes trustee as such the original subscriber and entitles the trust, on account of such subscription, to collateral exemption of interest on bonds of previous issues. (T. D. 2762; Oct. 18, 1918.)

When income as such is taxable to beneficiaries, as in case, under present income tax law, of trust income of which is to be distributed annually or regularly between existing beneficiaries, each beneficiary is regarded as owner of proportionate part of bonds held in trust, and subscription by trustee for bonds of Fourth Liberty Loan constitutes each beneficiary an original subscriber for his proportionate part and entitles him to collateral exemption of interest on bonds of previous issues, whether owned by beneficiary or by trustee, and subscription by such beneficiary for bonds of Fourth Liberty Loan entitles him to collateral exemption of interest on bonds of previous issues held by trustee. (T. D. 2762; Oct. 18, 1918.)

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Income taxes—Continued.

—— **Gross income.**

All amounts paid by fiduciaries to beneficiaries of trust estates from income of such estates, whether from receipts or otherwise, are held to be distributions of income and will be treated for income-tax purposes in accordance with provisions of law and regulations applicable to income of such beneficiaries. (T. D. 2690; art. 29.)

Beneficiary will be required in case of trust estate to account for actual amounts distributed or credited to him. (T. D. 2690; art. 29.)

—— **Net income.**

For purpose of normal tax only, income embraced in personal return shall be credited with amount received as dividends upon stock or from net earnings of any corporation, joint-stock company or association, trustee, or insurance company, which is taxable upon its net income; applicable to nonresident aliens. (T. D. 2690; arts. 9, 11.)

Where trustees of sinking fund have invested amount of sinking fund reserve or any portion of it in bonds of corporation, and such corporation pays to trustees interest thereon, the corporation will be permitted to deduct such interest, provided amount thus paid, plus interest on any other outstanding indebtedness, does not exceed legal limit; interest paid to trustees, together with all other earnings on investments made by trustees of the sinking fund, must be included in gross income of corporation. (T. D. 2690; art. 189.)

—— **Refunds.**

Claim for refund filed by the attorney for trust company, trustee under will, and claim filed for and in behalf of administrator de bonis non of decedent, can not be ascribed to cestui que trust on whose behalf the original executrix paid the tax without protest, and hence did not satisfy provision of act of July 27, 1912, that repayment shall be made to "such claimants as have presented or shall hereafter so present their claims." (T. D. 2886; July 10, 1919. Ct. Dec.)

Inutility of filing claim by the cestui que trust, based on fact that she knew precise facts of demands that had been made, and that she knew also that claims of the class to which hers belonged had been uniformly rejected, can not be urged as an excuse for failure to file another claim in her own name. (T. D. 2886; July 10, 1919. Ct. Dec.)

—— **Returns.**

Where terms of will or trust or decree of court provide for keeping corpus of trust estate intact and where physical property has suffered depreciation through its employment in business, deduction from gross income to care for this depreciation, where deduction is applied or held by fiduciary for making good such depreciation, may be claimed by fiduciary in his return; contents of return, (T. D. 2690; art. 29.)

Where, in case of more than one trust, creator in each instance is same person, and trustee in each instance is the same, trustee should make single return on Form 1041 for all trusts in his hands, notwithstanding fact that they arise from different instruments; when trustees are created by different persons for benefit of same beneficiary, trustee should make return for each trust separately on Form 1041. (T. D. 2690; art. 29.)

Where income under the provisions of section 2 (b) of the act of September 8, 1916, is accounted for in return by the executor, administrator, or trustee, and the tax shall have been assessed and paid, income is therefore freed of all tax liablity; return on Form 1040 or 1040A, subject to all deductions and exemptions, shall be made by executor or administrator for estate during period of administration, and entire tax paid thereon. (T. D. 2690; art. 29.)

Income accumulated in trust for unascertained persons or persons with contingent interests is income accruing to the estate and is taxable to the estate. (T. D. 2690; art. 29.)

Fiduciary acting for beneficiary in more than one estate or trust is required to account for each estate separately when amounts are such as to require filing of a return, and also a return of information; fiduciary acting for minor or insane person having net income of $1,000 or $2,000, according to marital status of such person, required also to file return for such incompetent on Form 1040 and 1040A, and pay tax found to be due, when there is more than one beneficiary of the income of the same trust. (T. D. 2690; art. 29.)

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Income taxes—Continued.

—— **Returns**—Continued.

Income held for future distribution under terms of will or trust is taxable to the estate except when returned by the beneficiary for the purpose of the tax. (T. D. 2690; art. 29.)

Where fiduciary in United States is recipient of trust income for which a nonresident alien is the sole beneficiary, fiduciary required to make full and complete return on Form 1040 or 1040A, as case may be, for such income on behalf of nonresident alien, and pay any and all normal tax found by such return to be due, and any and all surtax, provided the income is not returned for the purpose of the tax by the beneficiary; where there are two or more beneficiaries, one or all of whom are nonresident aliens, fiduciary shall render return on Form 1041, and personal return on Form 1040 or 1040A, for each nonresident alien beneficiary. (T. D. 2690, art. 29, as amended by T. D. 2988; Mar. 3, 1920.)

Return of individual is open to inspection by trustee of taxpayer's estate, or by duly constituted attorney in fact of such trustee, where maker of return has died; and, in discretion of Commissioner, by one of the heirs at law or next of kin of deceased person upon showing that he has a material interest which will be affected by information contained in the return. (T. D. 2961; Jan. 7, 1920.)

Copy of income return may be furnished by Commissioner to person who made return or to his duly constituted attorney, or if entity is in hands of trustee in bankruptcy, to such trustee upon written application for same, accompanied by satisfactory evidence that applicant comes within this provision. (T. D. 2962; Jan. 7, 1920.)

Inheritance taxes.

Remote possibility that funds turned over to legatees before July 1, 1902, by an executor might have to be returned does not prevent their being vested and taxable under the war-revenue act of 1898; for purposes of that act the interest transferred before July 1, 1902, from an estate to a trustee for ascertained persons is vested in possession no less than when it is conveyed directly to them. (T. D. 3008; Apr. 22, 1920. Ct. Dec.)

TRUSTEES IN BANKRUPTCY.

Bonds—Stamp taxes.

Indemnity or surety bonds given by trustees in bankruptcy for purpose of qualifying as such are bonds required in legal proceedings, and therefore exempt from taxation under Schedule A, act of October 3, 1917. (T. D. 2647; Feb. 2, 1918.)

Distilled spirits—Floor tax.

Under section 1003 of act October 3, 1917, tax on spirits in hands of bankruptcy court June 1, 1917, shall be collected from purchaser thereof by trustees in bankruptcy or their agent, and quantity sold and amount of tax collected during any calendar month shall be reported to collector of district in which sales are made not later than 10th day of month succeeding, which report shall be transmitted to Commissioner's office, whereupon assessment will be made and tax collected in ordinary course; person collecting tax, whether it is specifically charged as such to person to whom spirits are delivered or not, will be held liable for same. (T. D. 2749; July 29, 1918.)

Income taxes—Returns.

Under section 13, paragraph (C), receivers, trustees in bankruptcy, or assignees in charge of and operating property and business of corporations, must make returns of annual net income and pay tax regardless of what disposition, subject to orders of court, may be made of such income; such receiver, etc., stands in place of corporate officers and must perform all duties and assume all liabilities which would devolve upon such officers were they in control; income which he receives is income of corporation and is subject to tax imposed in so far as it exceeds deductions or allowances authorized by law, and such receiver, etc., must make true return of annual net income covering each year or part of each year, during which he is in custody and control of business or properties, and will be liable to all penalties for failure to meet any of its requirements. (T. D. 2690; art. 209.)

TURKISH BATHS.

Admissions.

See "Admissions."

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UNDISTRIBUTED NET INCOME.

See "Excess Profits Tax"; "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

UNITED STATES.

Annuities—Information at source for income-tax purposes.

Every person, corporation, etc., paying annuities of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such annuities and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Bonds or obligations—Additional taxes.

See "Liberty Bonds."

Taxpayer may give personal bond with one or more personal sureties, as required by statute, supported by deposit of registered bonds of United States, at face value equal to penal sum of bond, assigned to "the Commissioner of Internal Revenue." (T. D. 2606; Dec. 13, 1917.)

—— Capital stock tax.

Any surplus or undivided profits of a foreign corporation that are invested in United States bonds or other securities having no connection with actual business of corporation transacted in this country may be stated on return, Form 708, under item 3, but should not be included under item 1 as "capital invested in the United States." (T. D. 2467; Mar. 27, 1917.)

—— Estate tax.

United States Government bonds must be added to value of estates for purpose of taxation. (T. D. 2449; Feb. 13, 1917.)

—— Excess profits tax.

See "Liberty Bonds."

Interest received on all United States bonds and certificates exempt from normal income tax need not be included in gross income in return made for purpose of the 2 per cent tax or the 4 per cent tax, but interest on bonds and certificates issued under the act of September 24, 1917, in excess of interest on $5,000 aggregate principal amount of such bonds and certificates must be included in net income upon which war excess-profits tax is computed. (T. D. 2690; art. 100.)

—— Income taxes.

See "Liberty Bonds."

Interest on State, municipal, and United States bonds received by corporations is not taxable to the corporation; upon amalgamation with other funds of corporation such income loses its identity; when distributed to stockholders as a dividend, entire amount of dividend is subject to inclusion in returns of income for purposes of tax; foregoing holds true for scrip payment of interest. (T. D. 2690; art. 4.)

There shall not be included as income interest on obligations of the United States (but, in case of obligations of the United States issued after September 1, 1917, only if and to extend provided in act authorizing issue thereof), or its possessions. (T. D. 2690; art. 5.)

Section 1200 of the act of October 3, 1917, so amends section 4 of the act of September 8, 1916, as to exempt interest on obligations of United States issued after September 1, 1917, only if and to extent provided in act authorizing their issue; income from bonds and certificates issued under the act of September 24, 1917, is exempt from war income tax of 4 per cent imposed upon net income of corporations by section 4 of Title I of the act of October 3, 1917, and the 2 per cent tax imposed by section 10 of Title I of the act of September 8, 1916, as amended. (T. D. 2690; art. 85.)

Interest received on all United States bonds and certificates exempt from normal income tax need not be included in gross income in return made for purpose of the 2 per cent tax or the 4 per cent tax, but interest on bonds and certificates issued under the act of September 24, 1917, in excess of interest on $5,000 aggregate principal amount of such bonds and certificates must be included in net income upon which war excess-profits tax is computed. (T. D. 2690; art. 100.)

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Bonds or obligations—Continued.

—— **Income taxes**—Continued.

All interest received on obligations of United States or its possessions or on obligations of a State, or any political subdivision thereof, should be eliminated in ascertaining gross income; accrued interest on bonds purchased must not be included in amount eliminated from gross income; in case of obligations of United States issued after September 1, 1917, income therefrom is exempt from tax only to extent provided in the act authorizing their issue, and income from such obligations received by insurance companies is exempt from 2 per cent and 4 per cent tax. (T. D. 2690; art. 239.)

Restrictions as to distribution of earnings of previous taxable years resulting from presumption that all current distributions are from current earnings do not apply to use of earnings for investments by corporations; the acts of September 8, 1916, and October 3, 1917, contain no limitations or restrictions as to source from which may be taken earnings used for this purpose; amounts invested in obligations of United States issued after September 1, 1917, may thus be treated as made from such earnings as the corporation may designate. (T. D. 2700; Apr. 16, 1918.)

Amount of income subject to 10 per cent tax imposed by section 10 (b) of act of September 8, 1916 as amended, is to be ascertained by deducting from total net income received during taxable year as determined for purposes of annual tax imposed by section 10 (a), which remains undistributed six months after end of such taxable year, (1) amount of any income taxes imposed by authority of United States paid by corporation within such taxable year for income of that year, (2) such payment of undistributed income as is actually invested and employed in the business, or (3) is retained for employment in the reasonable requirements of the business, or (4) is invested in obligations of United States issued after September 1, 1917; if taxable year began on or after January 1, 1917, remainder is amount upon which tax is assessed, but if taxable year began before January 1, 1917, proportion of such remainder which period between January 1, 1917, and end of such taxable year bears to whole of such taxable year, is amount upon which tax is assessed; income received before beginning of taxable year ending in 1917, is not subject to tax even though remaining undistributed six months after end of such taxable year. (T. D. 2736; June 18, 1918.)

Designation of investment of earnings in obligations of the United States issued subsequent to September 1, 1917, may serve to prevent application of additional tax of 10 per cent to amount so invested, but does not warrant disregarding the amount of net income for taxable year so invested in determining profits or surplus from which any dividends may be distributed. (T. D. 2763; Oct. 21, 1918.)

—— **Stamp tax on notes secured by.**

Promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of any bonds or obligations of United States, issued after April 24, 1917, and all promissory notes issued and delivered on or after April 6, 1918, and secured by pledge of promissory note which itself is secured by pledge of United States bonds or obligations issued after April 24, 1917, are exempt from stamp tax imposed by section 301 of the act of April 5, 1918; bonds herein mentioned include Liberty bonds; exemption applies only where par value of bonds or obligations pledged shall equal amount of promissory note. (T. D. 2701; Apr. 16, 1918.)

Carriers' facilities, exemption from tax on use of.

See "Transportation Tax."

Certificates of indebtedness—Income and excess profits taxes.

Collectors directed to receive United States certificates of indebtedness, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes, when payable at or before maturity of certificates; amount of such certificates must not exceed amount of taxes due; deposits of such certificates to be made in Federal reserve banks of districts in which collectors' offices are located; insurance, where amounts are transmitted by registered mail; until certificates of deposits are received from banks amounts must be carried as "cash on hand"; schedule showing amount of accrued interest payable per certificate of each issue on any date from January 2, to June 25, 1918. (T. D. 2639; Jan. 28, 1918.)

Schedule showing exact amount of accrued interest payable on any day from February 15, 1918, to June 25, 1918. (T. D. 2656; Feb. 16, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated March 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates;

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Certificates of indebtedness—Income and excess profits taxes—Continued.

schedule showing exact amount of accrued interest payable on any day from March 15, to June 25, 1918. (T. D. 2680; Mar. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness, dated April 15, 1918, maturing June 25, 1918, at par and accrued interest, in payment of income and excess-profits taxes when payable at or before maturity of certificates; schedule showing exact amount of accrued interest on any day from April 15 to June 25, 1918. (T. D. 2703; Apr. 23, 1918.)

Collectors directed to receive United States certificates of indebtedness dated May 15, 1918, and maturing June 25, 1918, at per and accrued interest in payment of income and excess-profit taxes when payable at or before maturity of certificates; schedule showing the exact amount of accrued interest payable on any day from May 15 to June 25, 1918. (T. D. 2718; May 28, 1918.)

Collectors directed to receive at par United States Treasury certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, in payment of income and profits taxes when payable at or before maturity of certificates; deposits of certificates must be made with Federal reserve banks of districts in which respective collectors' offices are located and must be forwarded by registered mail; until certificates of deposit are received from banks, amounts must be carried as cash on hand; schedules of certificates required to be kept by collectors; deposit of certificates in banks by taxpayers permitted under stated conditions. (T. D. 2778; Dec. 11, 1918.)

Unmatured coupons attached to certificates of indebtedness of Tax Series of 1919, dated August 20, 1918, and maturing July 15, 1919, and of Series T, dated November 7, 1918, and maturing March 15, 1919, must be stamped "Paid"; coupons maturing on or before date tax is due nust be detached by taxpayer and collected, but all other coupons must be attached to certificate and forwarded to Federal reserve banks; accrued interest to date income or profits taxes are due not covered by coupons attached will be remitted to taxpayer; collectors must not pay interest on such certificates nor accept them for an amount other or greater than their face value. (T. D. 2778; Dec. 11, 1918.)

Compensation payments—Information at source for income-tax purposes.

Every person, corporation, etc., paying compensation, wages, etc., of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such compensation, wages, etc., and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Definition.

The term "United States," as used in Title V of the act of October 3, 1917, means only the States, Alaska, Hawaii, and the District of Columbia. (T. D. 2676; Mar. 18, 1918.)

The term "United States," as used in war excess-profits tax regulations (when used in a geographical sense) means only the States thereof, Alaska, Hawaii, and the District of Columbia, and unless otherwise indicated by the contex, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 4.)

"United States," as used in Regulations No. 38 (revised), includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. (T. D. 2750; art. 24; Aug. 9, 1918.)

Destruction of property—Income taxes.

Property destroyed by order of authorities of State or of United States may be claimed as a loss; if reimbursement is made, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 4.)

Actual cost of property destroyed by order of authorities of a State or of the United States may be claimed as a loss; but if reimbursement is made by a State or United States, amount received shall be reported as income for year in which reimbursement is made. (T. D. 2690; art. 123.)

Distilled spirits withdrawn for use of.

Regulations of October 26, 1917, relative to sale and use of distilled spirits for other than beverage purposes under acts of August 10, 1917, and October 3, 1917, do not apply to distilled spirits withdrawn for use of United States free of tax under section 3464, Revised Statutes. (T. D. 2559; Oct. 26, 1917.)

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Excise taxes—Articles sold to Government.

Articles sold to the Government in the ordinary course of business are taxable, but where Government supplies manufacturer with all materials and parts except small portion furnished by manufacturer, under contract stipulating that manufacturer shall be guaranteed a certain profit, no tax is payable because manufacturer does not sell the articles; articles manufactured in plants taken over and operated by Government are not subject to tax. (T. D. 2719; Art. VII.)

Under authority of section 3464 of the Revised Statutes tax on articles sold the Government may be remitted in cases within the scope of Regulations No. 34. (T. D. 2719; Art. VII.)

Insurance premiums—Information at source for income-tax purposes.

Every person, corporation, etc., paying insurance premiums of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such insurance premiums, and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Interest—Information at source for income-tax purposes.

Every person, corporation, etc., paying interest of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments authorized and required to render due and accurate return, setting forth the amount of such interest and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

Requirements for information at source do not apply to payment of interest on obligations of the United States. (T. D. 2690; art. 37.)

Liberty bonds.

See "Liberty Bonds."

Officers or employees—Income taxes.

Amounts expended by corporations, partnerships, or individuals engaged in business, in paying all or portions of regular compensation of officers or employees, who have for all or part of the period of the war joined the naval or military forces of the United States, or have undertaken services for the Government at reduced or nominal compensation, constitute, during the continuance of the war, ordinary and necessary expenses of doing business and are allowable as deductions in computing net income. (T. D. 2660; Mar. 1, 1918.)

Returns of information will not be required from disbursing officers of payments made to sailors, soldiers, or civilian employees of the United States Government. (T. D. 2670; Mar. 11, 1918.)

—— Inspection of returns.

See "Inspection."

Pensions—Income taxes.

Pensions paid by United States, private institutions, or individuals, are to be accounted for in all cases where income of pensioner is liable for income tas. (T. D. 2690; art. 4.)

President—Income tax.

Compensation of President of United States for term for which he is elected, beginning March 4, 1917, shall not be included as income for purposes of income tax under act of October 3, 1917, such compensation being subject to tax under the act of September 8, 1916. (T. D. 2690; art. 5; see T. D. 3037.)

Rent—Information at source for income-tax purposes.

Every person, corporation, etc., paying rent of $800 or more in any taxable year, or, in case of such payment made by the United States, the officers or employees of the United States having information as to such payments, authorized and required to render due and accurate return, setting forth the amount of such rent and the name and address of the recipients thereof. (T. D. 2690; art. 34.)

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Taxes—Deductions for income-tax purposes.

Taxes imposed against corporation by authority of United States (except income and excess profits taxes) or its territories and paid within year for which return is made are deductible from gross income of domestic corporation; similar taxes with like exceptions assessed against and paid by foreign corporation receiving income from any source within United States are deductible from gross income received from such source, except that taxes imposed by foreign Government and paid by foreign corporation are not deductible from gross income received from sources within United States. (T. D. 2690; art. 191.)

Telegraph, etc., messages—Official business.

All telegraph, telephone, or radio messages of officers and employees of United States, on official business, are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telegraph, telephone or radio company; officer or employee sending telegraph or radio message should certify thereon that it is on account of official business and not for private purposes; form of certificate indicated. (T. D. 2551; Oct. 22, 1917.)

Under section 502 of act of October 3, 1917, radio messages, telegraph messages, and telephone messages relating to Government business, which originate in United States, and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages may be claimed when amounts paid for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

Transportation tax liability.

See "Transportation Tax."

War risk insurance.

Tax imposed by section 504 of the act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War Risk Insurance Bureau; the act clearly contemplates that the tax shall be paid by the insurer and not by the insured; not only is it impossible in absence of express provision to contrary to infer that the United States intended to tax itself, but section 505 of the act obviously limits the application of the tax to persons, corporations, partnerships, and associations, in none of which classes is the United States included. (T. D. 2563; Oct. 23, 1917.)

Wines for use of—Taxability.

Wines purchased for use of United States or for Panama Canal Commission may be delivered free of tax; applications for necessary withdrawal permit in such cases, should be made under section 3464, Revised Statutes. (T. D. 2387; Oct. 30, 1916.)

Withdrawal of tobacco, manufactures thereof, and oleomargarine—Application.

Manufacturer must file application in duplicate on Form 664 for permit to make withdrawal of product in specific lots from his factory, and in addition to giving number of factory, district and State, the number of original or statutory packages and contents of each, and in the case of oleomargarine, the number of inner packages, if any, and weight of each, shall be set forth in each application as well as the total quantity covered, rate of tax applicable, amount of tax to be remitted, and the institution or name of the person or officer to whom, and the address to which, shipment or delivery is to be made; these applications may be forwarded direct to the Commissioner of Internal Revenue, in which case the duplicate application will be forwarded by the Commissioner to the collector, or filed with the collector for the district, in which case the collector must forward the original application immediately to the Commissioner; application should be filed sufficient time in advance of date upon which withdrawal is contemplated to be made to allow of receipt and issuance of permit by the Commissioner and receipt thereof by the manufacturer prior to that date. (T. D. 2982; Jan. 22, 1920.)

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Withdrawal of tobacco, manufactures thereof, and oleomargarine—Contd.

—— Bills of lading.

Where product withdrawn is transported by common carrier, the manufacturer must file with the collector of the district in which the factory making withdrawal is located bills of lading in duplicate covering each shipment from the factory to the point of final destination; one of these bills of lading, which must be filed promptly after withdrawal is made, will be filed with the copy of the application and permit which it covers in the collector's office, and the other, in case of tobacco manufactures only, shall be forwarded immediately with letter of transmittal to the Commissioner, but in the case of oleomargarine the collector will forward original certificate of receipt, with one copy of bill of lading, to the Commissioner with his monthly statement of account as a voucher for credit taken therein. (T. D. 2982; Jan. 22, 1920.)

—— Bond for transportation and delivery.

The manufacturer is required to furnish transportation and delivery bond in duplicate on Form 665 with satisfactory sureties and in penal sum of not less than the tax on the total quantity specified in the requisition; this bond, which shall state quantity of product requisitioned, number of factory, and its location, including the district and State, from which withdrawal is to be made, and the institution or name of the person or officer to whom, and address to which, shipment or delivery is to be made, may be executed by corporate surety or individual sureties, in the latter case each individual surety being required to show qualification on Form 33 executed in duplicate, and the duplicate form to be attached to the duplicate bond; the original and duplicate bond must be filed with the collector for the district in which the factory is located, who will, if the bond meets his approval, enter an indorsement to that effect on both the original and duplicate, and forward the duplicate immediately to the Commissioner of Internal Revenue. (T. D. 2982; Jan. 22, 1920.)

—— Certificate of receipt by Government officer.

The Government receiving officer at the place of delivery should inspect each shipment, in order that he may certify as to the quantity received and the date of receipt, his certificate to be made on Form 667 in duplicate and forwarded promptly to the manufacturer, who must file both copies of the certificate of receipt with the collector of internal revenue for the district within 30 days of date of withdrawal; where there is loss of goods in transit, the receipt should specify the number of statutory packages, the number of inner packages, if any, and the total quantity so lost, and the amount reported lost or any difference between the quantity withdrawn under permit and that certified to by the receiving officer will remain as charged against the transportation bond, and assessment of tax thereon will be made against the manufacturer in the absence of evidence showing that the goods not covered by the receiving officer's certificate were actually destroyed. (T. D. 2982; Jan. 22, 1920.)

—— Collector's account; credit on bond.

The bond covering the total quantity of product requisitioned will be credited by the collector, in the case of oleomargarine, upon receipt by him of certificate on Form 667, and the collector will, in case of oleomargarine, forward the original certificate of receipt to the Commissioner with his monthly statement of account as a voucher for credit taken therein; in the case of tobacco manufactures, the credit on the bond will be allowed in the office of the Commissioner, to whom the collector will forward the original certificate of receipt immediately after it is received by him. (T. D. 2982; Jan. 22, 1920.)

—— Departmental requisition.

Whenever oleomargarine, tobacco, or tobacco manufactures are purchased for use of the United States and it is proposed to make withdrawals, tax free, from the place of manufacture, requisition in duplicate on Form 663, approved by head of department or head of bureau, or other organization, if independent of a department, must be filed with the Commissioner of Internal Revenue; this requisition must specify the total quantity of the product contracted for at a price not including the tax thereon, the name of the manufacturer, his factory number, district and State, the location of the factory and the institution and name of the person or officer to whom, and address to which, shipment or delivery is to be made; one copy of the requisition will be forwarded by the Commissioner to the collector of internal revenue for the district in which is located the factory designated to furnish the product. (T. D. 2982; Jan. 22, 1920.)

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Withdrawal of tobacco, manufactures thereof, and oleomargarine—Contd.

—— Entries in manufacturer's records and reports.

Each withdrawal of a product from the factory shall be entered by the manufacturer in his revenue book on the day withdrawal is made and shall be included in his monthly or annual report under an appropriate heading and carried in the recapitulation as a special credit. (T. D. 2982; Jan. 22, 1920.)

—— Packing, branding, or stenciling.

Oleomargarine, put up in cartons or other packages of less than 10 pounds each, must be inclosed in packages of not less than 10 pounds each. as required by section 6, act of August 2, 1886, and each such statutory package shall, in addition to branding and stenciling required by other regulations, have branded or stenciled thereon "For use of U. S. Government," together with number of permit and date thereof, the letters and figures therein to correspond in size and style with other stenciling required by such other regulations. Each individual package of tobacco manufactures shall be labeled or branded "For use of U. S. Government," together with number of permit and the date thereof, the letters and figures of such printing to be conspicuous, in bold-face type, of not less than one-fourth of an inch in height. (T. D. 2982; Jan. 22, 1920.)

—— Permit.

Requisition and bond having been filed, permit in duplicate on Form 666 for each withdrawal, for which application is made and approved, will be issued by the Commissioner and forwarded to the collector, and the original permit will be delivered by the collector to the manufacturer to be retained as authority for making the withdrawal; no more than the quantity named in the permit may be withdrawn thereunder and no withdrawal shall be made in advance of the issue of a permit; withdrawals must be made within a reasonable time after receipt of permit or else request should be made for cancellation of such permit; all products withdrawn in advance of issue of permit will be held subject to tax and a manufacturer who violates the law by withdrawing products on which tax has not been paid, without permit, will be liable also to statutory penalties. (T. D. 2982; Jan. 22, 1920.)

UNITED STATES COURTS.

Judges—Income tax.

Compensation of all judges of the Supreme and inferior courts of the United States in office September 8, 1916, and October 3, 1917, shall not be included as income, compensation of judges of those courts appointed subsequent to September 8, 1916, being subject to tax under act of that date but not under act of October 3, 1917; compensation of judges of such courts appointed subsequent to October 3, 1917, are subject to tax under both acts. (T. D. 2690; art. 5.)

Retired pay of judges of United States courts is subject to income tax. (T. D. 2690; art. 4.)

UNITED STATES PHARMACOPŒIA.

Alcoholic compounds.

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Preparations such as aromatic elixirs, tincture of aromatica, and similar preparations used by physicians and pharmacists principally as vehicles, even though potable, may be sold in good faith for legitimate uses without payment of special tax, provided they are made in conformity with U. S. P. or N. F. (T. D. 2760; Oct. 9, 1918. T. D. 2788; Feb. 6, 1919.)

When it is desired to use nonbeverage alcohol in making flavoring extract for which no specific standard or process has been prescribed by Secretary of Agriculture, manufacturer must furnish, in duplicate, data required by T. D. 2576 with respect to alcoholic medicinal compounds not conforming to U. S. P. or N. F. Samples of product will be required when doubt exists as to nonbeverage character of same, which samples will be forwarded by express, charges prepaid, to Division of Chemistry, Office of the Commissioner of Internal Revenue. (T. D. 2760; Oct. 9, 1918.)

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Alcoholic compounds—Continued.

Where nonbeverage alcohol is used in manufacture of U. S. P. or N. F. preparations, such as aromatic elixirs, tincture of aromatica, etc., container must bear label upon which shall appear prescribed statement. (T. D. 2760; Oct. 9, 1918.)

Alcoholic solutions of Jamaica ginger must always be made in accordance with the process and comply with standards of the U. S. P. (T. D. 2760; Oct. 9, 1918.)

In the case of alcoholic medicinal compounds which are not in conformity with the United States Pharmacopœia or National Formulary, the manufacturer will file with collector, when requesting permit for use of nonbeverage alcohol or nonbeverage wines, the following data in duplicate: The name of the preparation, by whom manufactured, for whom manufactured in cases where same is not placed on the market by the manufacturer, the advertising matter distributed with the preparation, and the percentage of alcohol by volume contained in the finished product. (T. D. 2788; Feb. 6, 1919.)

Where manufacturer desires to make United States Pharmacopœia or National Formulary products, permit may be approved by collector of internal revenue without submitting the matter to this office; and as to such products a statement of the names by classes, such as "tinctures," extracts," etc., and that they conform to the standards specified, will be sufficient without any further description or statement of formula. (T. D. 2788; Feb. 6, 1919.)

The commercial labels that are placed on containers of all preparations other than United States Pharmacopœia or National Formulary must be filed with application for permit for use of nonbeverage distilled spirits or wines, otherwise permit will not be granted. (T. D. 2940; Oct. 29, 1919.)

Standards adopted by Bureau of Internal Revenue for alcoholic preparations in which nonbeverage alcohol may be used stated; these preparations include United States Pharmacopœia and National Formulary preparations, medicinal preparations, tincture of Jamaica ginger, flavoring extracts, perfumes, toilet waters, etc. (T. D. 2940; Oct. 29, 1919.)

Instructions with reference to permit to make United States Pharmacopœia or National Formulary products; also, with reference to alcoholic medicinal compounds not in conformity to United States Pharmacopœia or National Formulary; statement required of manufacturers; demand for formula and process by which article is manufactured; reference of matter of whether compound is beverage to Commissioner of Internal Revenue. (T. D. 2576: Nov. 10, 1917. T. D. 2788; Feb. 6, 1919.)

Such United States Pharmacopœia or National Formulary preparations as aromatic elixirs, tincture of aromatica, and similar preparations, which are used by physicians and pharmacists principally as vehicles, and which are potable, may be made with nonbeverage alcohol and sold in good faith for legitimate uses; container to bear stated label. (T. D. 2699; Apr. 16, 1918. T. D. 2788; Feb. 6, 1919.)

Excise tax—Scope of tax.

Preparations made in accordance with formulas contained in United States Pharmacopœia and National Formulary by pharmaceutical manufacturers, when not held out or recommended as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics, are not subject to tax; but if so held out or recommended they are taxable although not identified by any name, trade-mark, or otherwise. (T. D. 2719; art. 20.)

UNIVERSITIES.

Admissions to entertainment.

Admissions to school or college athletic contests and other college entertainments are not taxable if proceeds go to the school or the college, but they are if proceeds are used for support of athletics or other separate purposes. (T. D. 2681; Mar. 26, 1918.)

Every institution, claiming exemption from collecting tax on admissions by reason of being educational, required to file with collector of district affidavit upon stated form, prior to conducting any entertainment or amusement or permitting either to be conducted for its benefit; unless affidavit shall be filed sufficiently before date of entertainment to permit of full advance investigation of circumstances and a decision thereon, managers of entertainment shall keep and exhibit to internal revenue officers complete record of admissions to each performance, and will be held responsible for collection of tax in case claim for exemption is not allowed. (T. D. 2681; Mar. 26, 1918.)

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Alcohol withdrawn for use in.

See "Alcohol."

Income taxes—Salaries received under Smith-Lever Act.

Where employees of universities receiving salaries paid in part or in whole from funds received under the Smith-Lever Act of May 8, 1914, are officers or employees of a State, they are not required to include in their income tax returns as taxable income the salaries so received; if organization of college is one which belongs to State and which State governs, legislature may vacate offices, elect new professors, and do whatever it thinks necessary in management of the college, but if colleges are governed by trustees not directly responsible to State legislatures, employees receiving salaries paid in part from Smith-Lever funds are not employees of the State, and are not exempt from tax on that ground. (T. D. 2668; Mar. 9, 1918.)

UTILITIES.

Excess profits tax—Affiliated corporations.

Railroads, gas, electric, water, or other public service corporations when operated independently and not physically connected or merged—particularly when situated in different jurisdictions, and subject to regulation by public service commissions—will not be required or permitted, without special permission, obtained in advance, to make a consolidated return; when public utility is owned by industrial corporation, and is operated as a plant facility, or as an integral part of a group organization of affiliated corporations, and such corporations are required to file consolidated return, return of such public utility shall be included therein. (T. D. 2662; Mar. 6, 1918.)

Excise taxes.

Moneys received for service connections and pipe extensions are not permitted to be deducted from gross amount of income, as they do not come within any of the permitted classes of deductions mentioned in the act of August 5, 1909; moneys so expended are invested in permanent improvements which tend to enhance the rental and the market value of the water system. (T. D. 2475; Apr. 4, 1917.)

Fact that corporation was a public utilities corporation which, under the laws of the State of California, was not owner of property but merely intrusted with use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, and the act of August 5, 1909, making no exceptions in favor of public utilities. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

Income taxes.

Public utilities whose income inures to benefit of any State, Territory, or political subdivision thereof are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

Where public utility constructed, operated, or maintained by corporation under contract with any city, State, Territory, or the District of Columbia, agrees that portion of net earnings shall be paid to such city, State, Territory, or the District of Columbia, amount so paid may be deducted by the public utility company as necessary expense of transacting business. (T. D. 2690; art. 142.)

Telegraph, etc., messages—Official business.

Under section 502 of act of October 3, 1917, radio messages, telegraph messages, and telephone messages relating to Government business, which originate in United States and which are a charge against the Treasury of the United States, the District of Columbia, a State, Territory, or any political subdivision of a State or Territory, and are paid from funds thereof, are exempt from tax imposed by section 500 (e) of such act; messages not paid from such funds are not exempt from tax even though they relate to Government business. (T. D. 2619; Dec. 19, 1917.)

All telegraph, telephone, or radio messages of officers and employees of United States on official business are exempt from tax imposed by section 500 of act of October 3, 1917, and should not be reported in monthly return of telegraph, telephone, or radio company; officer or employee sending telegraph or radio message should certify thereon that it is on account of official business and not for private purposes; form of certificate indicated. (T. D. 2551; Oct 22, 1917.)

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Telegraph, etc., messages—Official business—Continued.

Exemption from tax imposed by section 500, subdivision (e), act October 3, 1917, on telephone, telegraph, and radio messages, may be claimed when amounts paid for such messages are finally to be paid by the Government under cost-plus contract; this does not apply where contractor is doing work for Government under lump-sum contract; form of exemption certificate. (T. D. 2742; July 1, 1918.)

Transportation of persons and property.

See "Transportation Tax."

VAUDEVILLE.

Admissions.

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or itinerant amusement enterprises within temporary inclosures or on vacant lots. (T. D. 2681; Mar. 26, 1918.)

"Cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, includes every hotel or room therein, restaurant, hall, or other public place at or in which, in connection with the service or sale of food, or other refreshments or merchandise, any vaudeville or other performance or diversion in the way of acting, singing, declamation, or dancing, is conducted. (T. D. 2681; Mar. 26, 1918.)

VEHICLES.

See "Motor Vehicles."

VERMUTH.

Bonds.

Manufacturers manufacturing vermuth or taxable liqueurs, etc., required under paragraph (h) of section 402 of the act of September 8, 1916, to execute a tax bond in stated form and to keep all such taxable articles separate and apart from nontaxable articles; bond to be executed in duplicate with sureties satisfactory to collector in a penal sum at least equal to tax on estimated quantity of articles named remaining on hand at any one time, but in no case less than $5,000; in case of insufficiency, new or additional bond will be required by collector. (T. D. 2404; Nov. 27, 1916.)

Cordials.

Vermuth in hands of retail dealers September 8, 1916, is subject to tax under act of October 22, 1914, as a cordial. (T. D. 2387; Oct. 30, 1916.)

Floor taxes.

All vermuths made exclusively with distilled spirits are subject to floor tax of $2.10 additional on each proof gallon or fraction of a gallon of the full alcoholic content thereof; when manufactured with mixtures of wine and spirits, additional tax will be due solely on distilled spirits contained therein, and not on spirits contained in fermented wines used; where distilled spirits exclusively have not been used, but compound contains fermented spirits, compound will be considered as having 15 per cent alcohol by volume produced by natural fermentation and tax will therefore be due only on alcoholic content in excess of 15 per cent; all genuine imported vermuths may be considered as having a wine base, unless there is reason for believing otherwise, and domestic vermuths manufactured in same manner as imported vermuths will be inventoried accordingly. (T. D. 2579; Nov. 5, 1917.)

Wine.

Cordials, including cocktails, are subject to tax only when containing wine fortified under the act of September 8, 1916; vermuth, while taxed under the act of October 22, 1914, as a cordial, is now subject to tax as a wine. (T. D. 2387; Oct. 30, 1916.)

Wines used in manufacture of vermuth must be first tax paid, and vermuth, as such, is subject also to tax imposed by act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Unfortified wines if not mixed with distilled spirits may be used in manufacture of vermuth, but such wines, as also the vermuths so manufactured, are each subject to tax; still wines fortified under the act of October 22, 1914, may be used in the

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Wine—Continued.

manufacture of vermuth subject to the conditions above named. (T. D. 2387; Oct. 30, 1916.)

Tax-paid still wines, domestic and foreign, and tax-paid distilled spirits may be used by rectifiers in the manufacture of vermuths under stated conditions; bond given by rectifier; marking of containers; notice and records; gauging of products after rectification; marking, branding, and stamping compounds. (T. D. 2403; Nov. 29, 1916.)

VESSELS.

Distilled spirits.

Section 303, revenue act of 1917, imposing floor taxes on distilled spirits, applies to distilled spirits held on board American ships and intended for sale, whether the vessel on which they were held was at dock in this country, on the high seas, or in foreign waters. (T. D. 3098; Dec. 7, 1920.)

Excise taxes.

See "Excise Taxes."

Transportation charges.

See "Transportation Tax."

VINEGAR.

Taxability.

Wines which have become so soured as to admit of their sale or use only as vinegar may be removed or may be destroyed, free of tax, in presence of deputy collector who will certify to fact on dealer's monthly statement; so-called wine vinegar if containing 2 per cent or more of alcohol will not be regarded as vinegar. (T. D. 2387; Oct. 30, 1916.)

VIRGIN ISLANDS.

Distilled spirits.

Distilled spirits produced in the Virgin Islands and held for sale in the United States on October 3, 1917, are subject to additional taxes imposed by act of October 3, 1917, as in case of domestic spirits. (T. D. 2570; Nov. 6, 1917.)

Excise taxes—Exports.

Taxes imposed by sections 313, 315 and 600 of act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory or elsewhere in the United States than in a State, and to articles sold in commerce between United States and any of its island or other possessions except the West Indian Islands acquired from Denmark. (T. D. 2739; June 24, 1918.)

Taxes imposed by such sections 313, 315, and 600 of the act of October 3, 1917, apply to articles sold in foreign commerce by manufacturer located in a Territory elsewhere in the United States than a State and to articles going from United States to any of its island or other possessions, including the Canal Zone, except that under acts of Congress articles going from United States into the West Indian Islands, or into the Philippine Islands or Porto Rico, are exempt to same extent as articles exported from a State to a foreign country. (T. D. 2781; Dec. 20, 1918.)

Stamp tax.

The stamp tax imposed by subdivision (b) of Schedule A of the act of October 3, 1917, attaches to time drafts covering articles shipped from a State of the United States to the Territory of Alaska, the Territory of Hawaii, and the Canal Zone, and, although time drafts covering shipments to the Virgin Islands, the Philippine Islands, and Porto Rico are not subject to the tax, time drafts covering articles shipped to the United States from the Virgin Islands or Philippine Islands or Porto Rico must be stamped upon coming into the United States; T. D. 2739 modified. (T. D. 2782; Dec. 24, 1918.)

General rule that time drafts are subject to stamp tax imposed by act of October 3, 1917, when delivered within territorial jurisdiction of United States, and not otherwise, is applicable to time drafts used between the territorial jurisdiction of the United States (including the States, the District of Columbia, the Territory of Hawaii, and the Territory of Alaska), and the Canal Zone, Philippine Islands, the Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795; Feb. 26, 1919.)

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Temporary government.

Extract from act of March 3, 1917, to provide temporary government for West Indian Islands, published for information of internal-revenue officers and others concerned. (T. D. 2463; Mar. 24, 1917.)

Transportation tax.

Transportation of property by water from port of the United States to Porto Rico, Philippine Islands, the Virgin Islands, and the Canal Zone is not subject to transportation tax imposed by section 500 of act of October 3, 1917; rail transportation of property from interior point in United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal-revenue taxes by reason of special acts of Congress; such transportation of property destined to the Canal Zone is not exempt. (T. D. 2795; Feb. 26, 1919.)

VOCATION.

Definition.

"Vocation" is defined as the occupation or pursuit to which one devotes his time or life; a calling. (T. D. 2690; art. 8.)

VOTING TRUSTS.

Certificates—Stamp taxes.

Tax imposed by act October 3, 1917, on issue of capital stock, does not apply to issue of voting-trust certificates, representing stock certificates already issued, nor to mere issue of new certificates in place of old certificates for stock previous outstanding. (T. D. 2752; Aug. 14, 1918.)

Tax imposed by act October 3, 1917, on transfer of capital stock applies to transfer of stock to or from voting trustees and to transfer of voting-trust certificates. (T. D. 2752; Aug. 14, 1918.)

WAGES.

See "Compensation."

WAIVER.

Income taxes—Expiration of time limit of assessment.

Where further tax is found to be due as result of audit of return or agent's report, amended return or waiver will not be required, except where discovery of tax is made subsequent to expiration of three-year period of limitation. (T. D. 2690; art. 38.)

Where limitation of statute as to assessment has run and written waiver of exemption from assessment is given by taxpayer, ad valorem penalties of 50 per cent, addition to tax, is not to be assessed for delinquency in filing return. (T. D. 2690; art. 52.)

Though Government may recover unpaid taxes by suit, it is desirable that collection be made as result of formal assessment, and in order that this may be done corporations owing additional taxes for any period antedating the three-year limitation should file amended returns, together with statement formally waiving such limitation and consenting to assessment; in executing such amended returns or waivers corporations forfeit none of their rights under the law, and no penalty is incurred which might not otherwise be enforced by suit. (T. D. 2690; art. 233.)

If corporation against which additional tax liability is discovered formally accepts findings of examining officer and agrees to voluntarily pay additional tax and does so pay additional tax, amended returns or waivers will not be required. (T. D. 2690; art. 234.)

WAR.

See "Army and Navy."

Destruction of property—Excess profits and income taxes.

In case of property title to which has been requisitioned for war use, or property which has been lost or destroyed in whole or in part through war hazards, excess of amount received by owner as compensation for property over value thereof on March 1, 1913, or over its cost if it was acquired after that date, except so far as actually used for replacement of property in kind, is subject to excess-profits taxes. (T. D. 2706; Apr. 25, 1918.)

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Destruction of property—Excess profits and income taxes—Continued.

Although intention or obligation of owner of property requisitioned for war uses, or lost or destroyed through war hazards, may be to use entire amount received as compensation for replacement in kind of such property, such replacement may not be practicable for a considerable time, owing to war conditions; in such case taxpayer may establish "replacement fund" in which entire amount of compensation shall be held, and pending disposition thereof accounting for gain or loss may be deferred for reasonable time, to be determined by Commissioner of Internal Revenue. (T. D. 2706; Apr. 25, 1918.)

Where property requisitioned, lost, or damaged, constitutes all or part of security under mortgage or trust indenture, amount carried to replacement fund may, subject to approval of commissioner, be amount of compensation received, less amount, if any, which becomes payable out of such compensation under terms of such instrument or obligations thereby secured; in such case taxpayer should apply to commissioner for permission to establish such fund, reciting in his application all facts relating to transaction and undertaking to proceed as expeditiously as possible to replace or restore property; taxpayer required to furnish bond with security, or make deposit; when replacement or restoration is made, new or restored property shall not be valued in accounts of taxpayer at amount in excess of that at which the requisitioned, damaged, or destroyed property was carried, except and to extent that such new or restored property has an increased productive capacity. (T. D. 2706; Apr. 25, 1918.)

Forms of application for permission to establish replacement fund and of permit therefor prescribed. (T. D. 2733; June 17, 1918.)

Only active depositaries of public moneys and surety companies holding certificates of authority from Secretary of Treasury as acceptable sureties on Federal bonds will be approved as sureties or depositaries under Schedules B and C of Form 1114, prescribed by T. D. 2733, on application for establishment of replacement fund in case of property requisitioned for war uses or lost or destroyed in whole or in part through war hazards, as permitted by T. D. 2706. (T. D. 2755; Aug. 26, 1918.)

Particular war taxes.

See specific heads.

WAR RISK INSURANCE.

Insurance tax.

Tax imposed by section 504 of the act of October 3, 1917, does not apply to soldiers' and sailors' insurance written by the War Risk Insurance Bureau; the act clearly contemplates that the tax shall be paid by the insurer and not by the insured; not only is it impossible in absence of express provision to contrary to infer that the United States intended to tax itself, but section 505 of the act obviously limits the application of the tax to persons, corporations, partnerships, and associations, in none of which classes is the United States included. (T. D. 2563; Oct. 23, 1917.)

Stamp tax.

Stamp tax imposed on indemnity and surety bonds by paragraph 2 of Schedule A, Title VIII, act of October 3, 1917, applies to indemnity bonds made to the Government to secure issuance of duplicate checks for allotment and allowance or other benefits under the act of October 6, 1917. (T. D. 2795; Feb. 26, 1919.)

WAR SAVINGS CERTIFICATES.

Exemptions from income and excess profits taxes.

Holders of war savings certificates authorized by act of September 24, 1917, are entitled to exemption from all income and war excess profits taxes upon interest received on principal amount not to exceed $5,000 face value of such obligations. (T. D. 2585; Nov. 8, 1917.)

WAREHOUSES.

Alcohol and alcoholic liquors.

See "Alcohol"; "Distilled Spirits"; "Fermented Liquors"; "Wines."

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Estate tax—Release of property by warehouseman.

Warehousemen having property in this country of nonresident decedent may not release to foreign administrator or executor or foreign beneficiary any property within this country at time of decedent's death until after tax due has been paid or ancillary letters have been taken out or otherwise provision has been made by estate for satisfaction of tax lien. (T. D. 2454; Feb. 28, 1917.)

Excise taxes—Reports by branch warehouses.

Branch warehouses carrying stock of taxable articles should, unless absolutely separate from the parent house, make reports to the parent house, the latter being liable for monthly returns for the taxes on the sales. (T. D. 2591; Nov. 24, 1917.)

WARRANTS.

Income taxes—Claims.

Warrants in payment of claims allowed will be drawn in names of parties entitled to money and shall, unless otherwise directed, be sent by Treasurer of United States directly to proper parties or their duly authorized attorneys or agents; where claimants are indebted to United States for taxes, they must be paid before warrants are delivered. (T. D. 2690; arts. 267, 268.)

—— Net income.

In cases wherein warrants are issued by a city or other political subdivision of a State and are accepted by contractor in payment for public work done, face value of such warrants must be returned as income for year in which they are received; if contractor does not receive and can not recover full face value of such warrants he may deduct from gross income for year in which warrants are converted into cash any loss sustained, which loss will be measured by difference between face value of warrants returned as income and amount actually received for them in cash or its equivalent. (T. D. 2690; art. 108.)

WATCHES.

Excise taxes.

Watches not used solely for utility purposes are taxable under section 600 (e) of the act of October 3, 1917; a watch, irrespective of how it is to be worn, is taxable as jewelry if its case or any attachment sold with it is ornamented with precious or semiprecious stones or with any ornamentation other than engraving or engine turning; a watch, whether or not otherwise taxable, is subject to tax if sold with a metal bracelet; a wrist watch is not subject to tax when sold with a leather band, webbing, or silk ribbon, if neither the watch nor such attachment is ornamented with precious or semi-precious stones or otherwise than by engraving or engine turning. (T. D. 2719; Art. XV.)

WATERS.

Beverages.

The tax imposed by section 313 (b) of act of October 3, 1917, is 1 cent for each gallon of carbonated waters and beverages manufactured and sold by the manufacturer of the carbonic acid gas used in carbonating same; tax attaches when person who (*a*) manufactures and (*b*) sells such waters and beverages is also (*c*) the manufacturer, producer, or importer of the carbonic acid gas used in their manufacture; soda fountain proprietor manufacturing his own carbonic acid gas must pay tax on carbonated drinks dispensed at such fountain; carbonated waters or beverages are not taxable when manufacturer buys his carbonic acid gas and pays tax of 5 cents per pound. (T. D. 2719, Art. XXXII.)

Tax imposed by section 315 of the act of October 3, 1917, is 5 cents for each pound of carbonic acid gas in drums or containers sold by the manufacturer, if intended for use in the manufacture or production of carbonated water or drinks, including fermented liquors containing less than one-half per cent of alcohol; carbonic acid gas used in drawing beer from containers or in operation of refrigerating plants, or in preserving food products, or in manufacture of beverages containing one-half per cent or more of alcohol, is not subject to the tax; in all cases of sales of carbonic acid gas for use other than in the manufacture of carbonated water or other drinks, manufacturer must prominently stamp on or affix to container a warning, as follows: "Federal tax not paid. Unlawful to use in the manufacture of beverages." (T. D. 2719; Art. XXXV.)

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Excise taxes.

Artificial mineral waters, not carbonated, sold by manufacturer, producer, or importer, in bottles or other closed containers, carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, and natural mineral waters and table waters sold by the producer, bottler, or importer, in bottles or other closed containers at over 10 cents per gallon, all of which are taxed under section 313 of the act of October 3, 1917, are not subject to tax under section 600 (h) if intended for use solely as beverages. (T. D. 2719; Art. XXIII.)

WATER COMPANIES.

Excise taxes.

Moneys received for service connections and pipe extensions are not permitted to be deducted from gross amount of income, as they do not come within any of the permitted classes of deductions mentioned in the act of August 5, 1909; moneys so expended are invested in permanent improvements which tend to enhance the rental and the market value of the water system. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

Fact that corporation was a public utilities corporation which, under the laws of the State of California, was not owner of property but merely intrusted with use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, an the act of August 5, 1909, making no exceptions in favor of public utilities. (T. D. 2475; Apr. 4, 1917. Ct. Dec.)

WATER TRANSPORTATION.

See "Transportation Tax."

WEST INDIAN ISLANDS.

See "Virgin Islands."

WHISKY.

See "Distilled Spirits."

WHOLESALERS OF GOODS.

Alcohol.

See "Alcohol."

Distilled spirits.

See "Distilled Spirits."

Floor tax.

See "Floor Taxes."

Oleomargarine.

See "Oleomargarine."

Wines.

See "Wines."

WIDOWS.

Estate tax.

Provisions in statutes of various States to the effect that the widow is entitled to family pictures, wearing apparel, etc., and to certain household goods in lieu of an award, has reference to the widow's exemption and has no application in determining the deductibility of an amount paid for the support of dependents, provided for by section 203 (a) (1) of the act of September 8, 1916. (T. D. 2531; Oct. 4, 1917.)

WINES.

Act published.

Sections 401, 402 (a), 409, and 902, of the act of September 8, 1916, relating to taxes on wines, published for the information of internal revenue officers and others concerned. (T. D. 2363; Sept. 11, 1916.)

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Alaska.

Extracts from act of February 14, 1917, prohibiting manufacture and sale of alcoholic liquors in Alaska, published for information of internal-revenue officers and others concerned. (T. D. 2466; Mar. 27, 1917.)

Alcoholic content.

In general, dry wines, such as claret and sauternes, come within the 4-cent tax rate, and sweet wines, such as sherry, port, and Madeira, come within the 10-cent rate; certain sweet wines which test over 21 per cent are subject to 25-cent rate; dealers should determine alcoholic strength from invoices received by them. (T. D. 2387; Oct. 30, 1916.)

So-called sherry material and grape juice containing one-half of 1 per cent or more of alcohol classed as wine and subject to tax as such. (T. D. 2387; Oct. 30, 1916.)

Articles 27 and 28, of Regulations No. 28, Supplement No. 2, require gaugers and visiting deputies to make occasional tests of wine as to alcoholic content, but responsibility for proper stamping of wines is placed upon wine maker or bonded dealer; samples are not to be submitted unless appeal is taken from findings of internal revenue officers or in cases where it is suspected that the wines are understamped. (T. D. 2400; Nov. 24, 1916.)

Wines containing more than 24 per centum of absolute alcohol being classed as distilled spirits by paragraph (a), section 402, act September 8, 1916, production of same for beverage purposes is prohibited by act August 10, 1917, section 15. (T. D. 2748; July 17, 1918.)

Beverage spirits.

Sour wine may not be used in producing beverage spirits. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917. T. D. 2559; Oct. 26, 1917.)

Blended wines.

Unstamped wines may be blended on bonded premises, but when removed must be stamped according to the alcoholic strength of wine as blended. (T. D. 2387; Oct. 30, 1916.)

Where wines of different alcoholic strength are blended, tax will be computed and paid on resultant product; this applies to wines previously tax paid, and any additional tax in such cases must be paid by stamps to be affixed to packages or cases containing such blended wines. (T. D. 2387; Oct. 30, 1916.)

Wines are taxable according to their alcoholic strength when placed on the market, but blending on bonded premises of wines of different alcoholic strength is permissible. (T. D. 2387; Oct. 30, 1916.)

Bonds of wine makers, etc.

See "Bonds."

Carbonated wines.

Carbonated wines can be produced only at the winery or other bonded premises and can not therefore be produced on premises of retail dealer. (T. D. 2387; Oct. 30, 1916.)

The artificially carbonating of still wines on which tax has been paid is not permissible, as such carbonated wines are a distinct product and must be produced on bonded premises. (T. D. 2387; Oct. 30, 1916.)

Distinction between carbonated wine and sparkling wine is that former is artificially carbonated while latter is carbonated by natural fermentation. (T. D. 2387; Oct. 30, 1916.)

Champagne.

Making of champagne or other sparkling wines must be carried on at winery where such wines are produced or blended; use of sugar or rock-candy sirup in treatment of champagne wines after bottling will be permitted without supervision of gauger. (T. D. 2470; Mar. 27, 1917.)

Claims for refund or abatement.

Provisions of T. D. 2688 do not govern in case of claims for refund or abatement of taxes on distilled spirits, fermented liquors, and wines. (T. D. 2926; Sept. 29, 1910.)

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Clarified wines.

Wines returned to bonded premises in stamped packages to be clarified may, when clarified, be replaced in such stamped packages which should be set apart for that particular purpose; if otherwise recasked the wines will be subject to tax as if originally produced. (T. D. 2387; Oct. 30, 1916.)

Debonnet.

Debonnet is subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Exemptions.

Exemption of 200 gallons free of tax for family use by paragraph (b) of section 402 of the act of September 8, 1916, applies only to wines made on premises of producer for exclusive use of his own family and not to wines produced at a winery owned and operated by several heads of families jointly. (T. D. 2387; Oct. 30, 1916.)

Each person entitled to and desiring to avail himself of exemption provided by section 402 (b) of act September 8, 1916, must file notice with collector of internal revenue before commencing manufacture of wine; such notice must be on paper 8 by 10½ inches in size and in stated form. (T. D. 2765; Oct. 21, 1918.)

Exemption from tax on wines produced for family use, under section 402 (b) of act September 8, 1916, does not apply to (a) wines made by one person for use of another, whether consumed on premises or removed therefrom for family use of owner; (b) wines produced by a single person, unless he is the head of a family; (c) wines produced by married man living apart from his family, and not for use of that family; (d) wines made by partnership, or to wines produced at a winery owned and operated by several heads of families jointly; (e) wines furnished ranch hands or boarders. (T. D. 2765; Oct. 21, 1918.)

Exportation.

Domestic wines may be exported to foreign countries or may be shipped to Porto Rico, the Philippine Islands, and to the Panama Canal Zone, free of tax; like exemption, however, does not apply to shipments to the island of Guam. (T. D. 2387; Oct. 30, 1916.)

Withdrawal and export entry required to be in stated form, and when approved to be returned to exporter and by him filed in duplicate with collector of customs at port from which wines are to be shipped at least six hours prior to shipment; upon issuing certificate of clearance original entry required to be returned to collector of internal revenue, who will credit export bond and will forward entry and bill of lading to Commissioner of Internal Revenue. (T. D. 2416; Dec. 12, 1916.)

Where domestic wines are to be removed from bonded premises free of tax for exportation, party intending to export same shall file with collector of district in which such premises are located bond in stated form, to be executed in duplicate, one copy to be retained by collector, and one copy to be forwarded to Commissioner of Internal Revenue; penal sum of bond must be at least equal to double amount of tax on estimated quantity of wine to be removed during period of three months and in no case less than $1,000; bond will be continuing bond, and an account will be kept with each bond in which principal will be charged with tax on each lot removed for exportation and will receive credit for each lot concerning which satisfactory proof of exportation is received. (T. D. 2416; Dec. 12, 1916.)

Where exportation is by rail, and locks, seals, and tags on cars are found intact, collector required to append to entry or transportation manifest, and under seal, specified certificate; return of entry and transportation manifest to collector at port from which merchandise was originally shipped; certificate of collector of port from which merchandise was shipped. (T. D. 2505; June 25, 1917.)

Where exportation is otherwise than by rail, and wines are found to agree with what is specified in entry, collector required, after goods have been duly laden and cleared, to append to entry specified certificate; unless through bill of lading has been filed with collector of customs forwarding said entry, proper bill of lading must be filed with collector of customs at port of transshipment. (T. D. 2505; June 25, 1917.)

Where wines entered for export are to be transshipped or are to be shipped in sealed cars through a frontier port, collector of customs with whom entry is filed required, upon inspection and lading of goods, to transmit one copy of said entry, together with copy of transportation manifest, to collector of customs at port of transshipment; he will also note upon entry so transmitted whether through bill of lading has been filed in his office. (T. D. 2505; June 25, 1917.)

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Exportation—Continued.

Upon receipt of entry, collector at port of transshipment will direct officer to examine wines and ascertain whether same agree with entry and to superintend lading of same, or, in case wines are shipped in sealed cars, to examine the seals; duties of inspector on finding the seals intact and also where such seals are found not intact. (T. D. 2505; June 25, 1917.)

All packages or cases containing wines for export must be plainly marked or tagged for identification, and such identifying marks must contain the words "For export," in letters not less than two inches in height. (T. D. 2505; June 25, 1917.)

In case of shipment of wines free of tax from bonded premises established under section 402 of act of September 8, 1916, to bonded manufacturing warehouse to be manufactured into articles for export, proprietor must execute Form 703, in quadruplicate; on arrival of wines at port of entry manufacturer will report same to collector of customs, who will cause wines to be inspected and gauged and will certify receipt of wines on blue Form 703, returning one blue copy to collector of internal revenue and sending other to commissioner; separate transportation bond covering tax on wines need not be executed; credit given bond (Form 699 or 699A) on receipt of certificate by collector of internal revenue from collector of customs. (T. D. 2738; June 20, 1918.)

Regulations contained in T. Ds. 2416 and 2505 continued in force and effect during war prohibition period. (T. D. 2881; July 3, 1919.)

Filtering.

Use of filtering apparatus will be permitted for filtering wines, but if otherwise used on premises of dealers such dealers will thereby incur special tax as rectifiers. (T. D. 2387; Oct. 30, 1916.)

Fortification.

Brandy made from grape cheese, sweetened as provided in the act of September 8, 1916, can not be used in fortification of pure sweet wine under provisions of the act of October 1, 1890, as amended. (T. D. 2373; Sept. 28, 1916.)

Artificial or imitation wines can not be fortified under the provision of paragraph (c) of section 402 of the act of September 8, 1916, and if containing distilled spirits can not be used in the manufacture of cordials. (T. D. 2387; Oct. 30, 1916. But see T. D. 2403; Nov. 29, 1916.)

Use of condensed must before fermentation or before fortification of wine is permissible; pending revision of regulations, fortification of wines permitted to continue under existing regulations and existing form of bond, if consent of signers to bond is obtained. (T. D. 2387; Oct. 30, 1916.)

Cordials are taxable under the act of September 8, 1916, only when containing wine fortified under that act; mixing of wine not so fortified with distilled spirits in the manufacture of cordials is within prohibition of paragraph (f) of section 402 of such act. (T. D. 2387; Oct. 30, 1916.)

Wines fortified under the act of September 8, 1916, if containing added sugar and aromatic substances, under whatever name sold, will be subject to tax as cordials. (T. D. 2387; Oct. 30, 1916.)

There is no provision in the act of September 8, 1916, for refund of tax on brandy used in fortifying wines or redistillation of such wines; since act of September 8, 1916, is amendatory of the act of October 22, 1914, refunding provision of latter act is not applicable. (T. D. 2387; Oct. 30, 1916.)

Tax on fortified wines should be computed and paid on alcoholic strength of such wines after fortification. (T. D. 2387; Oct. 30, 1916.)

Dry wines when sweetened may be fortified only by the producer and on the premises where actually made; tax-paid grain or other ethyl alcohol may be used in fortifying any sweet wines. (T. D. 2387; Oct. 30, 1916.)

The abatement and refunding provisions of section 402 of act of September 8, 1916, apply not to the tax collectible on the finished wines but to the tax assessed on the brandy used in the fortification of such wines; proof as to use of brandy and actual possession of wines by producer at time such act went into effect must be furnished with each claim filed; part of paragraph 23 of Regulations No. 28, Supplement No. 2, revoked. (T. D. 2440; Feb. 5, 1917.)

Where wines to which sugar solution has been added to correct natural deficiencies are to be fortified under provisions of section 402 of the act of September 8, 1916, use of sugar or condensed grape must is permissible, where use is under supervision of gauger; wine so treated and fortified becomes sweet wine within meaning of act;

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Fortification—Continued.

sugar may be added in subsequent cellar treatment where needed to perfect the wine according to commercial standards without rendering wine makers or bonded dealers liable to special tax as manufacturers; champagne wines may be treated without supervision of gauger. (T. D. 2470; Mar. 27, 1917.)

Only brandy produced from grapes may be fermented and distilled for fortifying sweet wines after September 8, 1917. (T. D. 2520; Aug. 30, 1917.)

Form 699A may be executed by wine makers covering tax on brandy used in fortification of wines, transportation of brandy to bonded winery, and its use in fortification. (T. D. 2525; Sept. 24, 1917.)

Regulation of October 26, 1917, prohibiting manufacture of distilled spirits for beverage purposes after September 8, 1917, does not apply to production of grape spirits solely for use in fortification of sweet wines under act of September 8, 1916. (T. D. 2559; Oct. 26, 1917.)

Fermenting and distilling of materials for production of beverage brandy after September 8, 1917, prohibited; brandy produced from grapes may be distilled for fortifying sweet wines under acts of September 8, 1916, and August 10, 1917; brandy may be produced from materials fermented after September 8, 1917, for other than beverage purposes. (T. D. 2559; Oct. 26, 1917. T. D. 2788; Feb. 6, 1919.)

All casks, tanks, or cases of wine, fortified under act of September 8, 1916, removed from bonded premises, must be conspicuously marked or labeled with following legend, in addition to information called for by Regulations No. 28, Supplement 2, article 10: "Fortified under act September 8, 1916"; such marks or labels should be in reasonable proportion to size of container, and label must be pasted to container and secured thereto by tacks; where such wine is transferred to other containers, new containers must also bear similar legend. (T. D. 2629; Jan. 7, 1918.)

Fruit juices.

Unfermented prune juice, unless fortified with wine or spirits and sold as wine, or unless mixed with fortified wine and sold as a cordial, is not subject to tax. (T. D. 2387; Oct. 30, 1916.)

Apple cider or other fruit juice, fermented naturally or artificially, if sold as wine, is taxable as wine. (T. D. 2387; Oct. 30, 1916.)

Wines made from berries or fruit, whether pure or adulterated, are taxable as wine (T. D. 2387; Oct. 30, 1916.)

Gaugers—Assignment to bonded wineries.

Regulations with reference to assignment to bonded wineries of gaugers and of storekeeper-gaugers as gaugers; compensation and traveling expenses; duties; proprietors required to furnish Salleron-Dujardin ebullioscopes for use of gaugers, and sweet-wine sets may be used by revenue agents, deputy collectors, and others, for verifying and testing alcoholic content of wines. (T. D. 2380; Oct. 10, 1916.)

Gifts.

Wines given away by dealers are nevertheless subject to tax under the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Honey wine.

Honey wine, unless so sweetened as to be a cordial, is subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Imitation or artificial wines.

Imitation or artificial wines, although labeled as such, and all compounds made in imitation of or sold as wine are taxable. (T. D. 2387; Oct. 30, 1916.)

Imports.

Tax on imported wines being payable on removal of wines from customhouse, such wines can not be transferred to bonded premises established under the wine act. (T. D. 2387; Oct. 30, 1916.)

Imported wines when removed from customhouse must be tax paid by stamp. (T. D. 2387; Oct. 30, 1916. T. D. 2391, Nov. 6, 1916.)

Imported wines transferred in bond from port of entry to another port will be tax paid on removal from bond at last-named port. (T. D. 2387; Oct. 30, 1916.)

Bonds securing payment of internal-revenue tax will not be required for imported wines, as such wines remain in custody of customs officers until such tax is paid. (T. D. 2387; Oct. 30, 1916.)

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Imports—Continued.

No allowance can be made where shortage is discovered on imported wine after being tax paid; if shortage is discovered before removal from customhouse tax need be paid only on quantity removed. (T. D. 2387; Oct. 30, 1916.)

Importer of wines or his agent permitted as matter of convenience to affix required stamps to custom entry instead of stamping packages or cases containing such wines upon the compliance with stated instructions; where importer prefers to stamp each package or case he may do so. (T. D. 2391; Nov. 6, 1916. T. D. 2414; Dec. 11, 1916.)

Jurisdiction to enforce law.

The Department of Justice has exclusive jurisdiction to enforce the prohibition provisions of the act of November 21, 1918, and inquiries as to such act should be addressed either to the Attorney General or local United States attorney; apparent violations of the act should be reported to the local officers of the Department of Justice. (T. D. 2881; July 3, 1919.)

Labels.

Wines received by other than bonded dealers may be withdrawn from stamped packages to be clarified or placed in other containers, but all such new containers shall be labeled by the dealer, showing the wine was withdrawn from stamped packages. (T. D. 2387; Oct. 30, 1916.)

All casks, tanks, or cases of wine fortified under act of September 8, 1916, removed from bonded premises, must be conspicuously marked or labeled with following legend in addition to information called for by Regulations No. 28, Supplement 2, article 10: "Fortified under act September 8, 1916;" such marks or labels should be in reasonable proportion to size of container and label must be pasted to container and secured thereto by tacks; where such wine is transferred to other containers new containers must also bear similar legend. (T. D. 2629; Jan. 7, 1918.)

Where wines are removed in bottles, proprietor of bonded premises may affix appropriate stamp to each case containing such bottles, in which event each bottle must bear specified label; if wines are removed from tank car the casks or cases to which removed must be labeled as specified; and if wine removed from such tax-paid tank cars is placed in bottles, in addition to label required to be placed on the case, certain specified label must be placed on each bottle; other tax-paid wines removed from stamped containers, as also any unstamped or unlabeled wine heretofore removed from original containers which were properly stamped or labeled must be labeled as stated; all labels prescribed must be provided by party using same. (T. D. 2667; Mar. 9, 1918.)

Liqueurs, cordials, and similar compounds.

Any domestic wines may be used in manufacture of liqueurs, cordials, and similar compounds, provided no distilled spirits are added; prohibition against mixing of distilled spirits with wines does not apply to limited use of alcohol in making of fluid extracts from herbs which may be used in manufacture of cordials; quantity or percentage of alcohol permitted in preparation of such extracts for manufacture of cordials must in all cases conform to United States Pharmacopœia. (T. D. 2387; Oct. 30, 1916.)

Cordials, including cocktails, are subject to tax only when containing wine fortified under the act of September 8, 1916; vermuth, while taxed under the act of October 22, 1914, as a cordial, is now subject to tax as a wine. (T. D. 2387; Oct. 30, 1916.)

Tax-paid still wines, domestic and foreign, and tax-paid distilled spirits may be used by rectifiers in the manufacture of vermuths, liqueurs, cordials, and similar compounds and fluid extracts under stated conditions; bond given by rectifier; marking of containers; notice and records; gauging of products after rectification; marking, branding, and stamping compounds. (T. D. 2403; Nov. 29, 1916.)

So-called cordials, if in fact wine, or if sold as wine, although containing fermented fruit juices or distilled spirits, are taxable as wine. (T. D. 2387; Oct. 30, 1916.)

Wines and cordials in hands of wholesale dealers September 8, 1916, not having been removed for sale directly to consumers, are not subject to tax under act of October 22, 1914.) (T. D. 2387; Oct. 30, 1916.)

Wines and cordials in hands of retail dealers September 8, 1916, having been removed for consumption prior to that date, are subject to tax under the act of October 22, 1914. (T. D. 2387; Oct. 30, 1916.)

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Liqueurs, cordials, and similar compounds—Continued.

Cordials, etc., held by wholesale dealers when act of September 8, 1916, took effect and those subsequently received (unless containing sweet wine fortified under that act) are not subject to tax. (T. D. 2387; Oct. 30, 1916.)

Tax-paid wine fortified under the act of September 8, 1916, if so treated as to bring it within class of cordials is subject to tax as a cordial. (T. D. 2387; Oct. 30, 1916.)

Manufacturers manufacturing vermuth or taxable liqueurs, etc., required under paragraph (h) of section 402 of the act of September 8, 1916, to execute a tax bond in stated form and to keep all such taxable articles separate and apart from nontaxable articles; bond to be executed in duplicate with sureties satisfactory to collector in a penal sum at least equal to tax on estimated quantity of articles named remaining on hand at any one time, but in no case less than $5,000; in case of insufficiency new or additional bond will be required by collector. (T. D. 2404; Nov. 27, 1916.)

Losses, allowances for.

Allowance not exceeding 3½ per cent of the quantity of wines removed tax paid made for shrinkage, evaporation, soakage, and breakage at both bonded wineries and bonded storerooms; allowance extended to losses occurring in transit; monthly reports of proprietors of bonded premises; claim of losses; inventories; computation of losses. (T. D. 2545; Oct. 16, 1917.)

Nonbeverage wine—Application to vendor.

After December 1, 1919, vendor of nonbeverage distilled spirits or wines must, under no circumstances, deliver wines (except for sacramental purposes), or nonbeverage spirits, unless on receipt of application Form 739, duly certified by prohibition enforcement officer; until December 1, 1919, approval of prohibition enforcement officer on Form 739 will not be required prior to shipment of wines or spirits. (T. D. 2946; Nov. 13, 1919.)

Dealer or user who has received permit and posted same may make application for withdrawal or to purchase from dealers duly qualified specific quantities of distilled spirits or wines for nonbeverage purposes; requisities of application, which must be made in triplicate, stated; approval of application; signatures; form of application. (T. D. 2940; Oct. 29, 1919.)

Applicant for withdrawal of wines for use or sale required to make out application in triplicate, filling in certain data; application to be delivered to vendor who will fill in certain other data; disposition of triplicates; signature where applicant is corporation or copartnership; form; serial number. (T. D. 2788; Feb. 6, 1919.)

All persons are forbidden to sell or deliver distilled spirits or wines (excepting wines for sacramental purposes) for use or sale for other than beverage purposes, to any person, firm, or corporation not qualified as a user or dealer, and then only upon delivery by person so qualified of application therefor in due form. (T. D. 2788; Feb. 6, 1919.)

—— Flavoring extracts.

Nonbeverage alcohol and nonbeverage wine may be used in the manufacture of bona fide flavoring extracts for culinary purposes and soft drinks where such extracts are manufactured in accordance with the standards prescribed in the United States Pharmacopœia and National Formulary and by the Secretary of Agriculture; where not manufactured in accordance with such standards the sworn data and samples required herein as to alcoholic and medicinal compounds will be required. (T. D. 2788; Feb. 6, 1919.)

—— Labels.

The commercial labels that are placed on containers of all preparations other than United States Pharmacopœia or National Formulary must be filed with application for permit for use of nonbeverage distilled spirits or wines, otherwise permit will not be granted. (T. D. 2940; Oct. 29, 1919.)

Wines manufactured for other than beverage purposes after May 1, 1919, and all wines sold after June 30, 1919, when removed from bonded wineries or bonded storerooms, including such wines shipped in bond, must bear printed label printed by wine maker bearing stated legends; label shall bear date when affixed, shall be signed in wine maker's name and shall be pasted to head of barrel and secured by tacks, except when contained in metal packages, in which case tacks will not be required, but label must be securely pasted in conspicuous place; no advertising matter will be permitted on label. (T. D. 2788; Feb. 6, 1919.)

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Nonbeverage wine—Continued.

—— Medicinal extracts and compounds.

Under the act of September 8, 1916, it is illegal to mix distilled spirits and wines for any purpose except in the manufacture of liqueurs, cordials, and similar compounds taxable under that act, but this does not prohibit the manufacture of medicinal extracts with tax-paid nonbeverage spirits and the subsequent addition of such extracts to tax-paid wines in the manufacture of proprietary medicines or soft drinks which are otherwise manufactured in accordance with the law and regulations; this provision removes an apparent conflict pertaining to the mixture of distilled spirits and wines as contained in T. D. 2387 and T. D. 2403. (T. D. 2788; Feb. 6, 1919.)

Where the collector is in doubt as to whether or not medicinal compound is a beverage, he will issue permit and submit entire matter to Commissioner of Internal Revenue with a commercial package or packages of not less than 16 ounces of the product for determination. (T. D. 2788; Feb. 6, 1919.)

If an alcoholic compound is already listed in T. D. 2544, or subsequent decisions of similar purport, as one requiring special tax for its manufacture and sale, permit shall not be issued nor will permits be issued to retail liquor dealers, except pharmacists. (T. D. 2788; Feb. 6, 1919.)

—— Penalties.

The sale or use of medicinal and culinary or flavoring extracts made with nonbeverage distilled spirits or wines for beverage purposes or for manufacture into alcoholic beverages will subject the seller or user to the penalties provided. (T. D. 2788; Feb. 6, 1919.)

When there is evidence that wine or liquor obtained actually or ostensibly for sacramental, medicinal, or nonbeverage purposes, has been used for beverage purposes it shall be reported to the Commissioner for assertion of additional tax liability, and to the United States attorney for prosecution. (T. D. 2881; July 3, 1919.)

Fact that occupation or the production or sale of a beverage is prohibited does not relieve those engaged in such occupation or producing or selling the beverage from tax liability; payment of tax in no way conveys any right to act contrary to or to be exempt from liabilities imposed by the prohibition legislation; result of statutes imposing taxes and prohibiting traffic is that same person may incur liability to tax and at same time be liable to prosecution under the prohibition laws. (T. D. 2881; July 3, 1919.)

—— Permit to use or sell, in general.

Collectors required to exercise utmost caution in issuing permits where any doubt whatever exists as to sufficiency of medication as to alcoholic or medicinal compounds for internal use or manufacture of flavoring extracts. (T. D. 2788; Feb. 6, 1919.)

Where manufacturer desires to make United States Pharmacopœia or National Formulary products, permit may be approved by collector of internal revenue without submitting the matter to this office; and as to such products a statement of the names by classes, such as "tinctures," "extracts," etc., and that they conform to the standards specified, will be sufficient without any further description or statement of formula. (T. D. 2788; Feb. 6, 1919.)

—— —— Application and bond.

All persons, firms, or corporations (except distillers and proprietors of bonded warehouses, bonded wineries, and bonded storerooms, making deliveries in the original taxpaid packages) desiring to use or sell wines for other than beverage purposes, will be required, first, to qualify therefor by filing with collector of district in which business is to be conducted an application, in duplicate, for a permit, and a bond, in duplicate, to be approved by collector of district. (T. D. 2788; Feb. 6, 1919.)

In the case of alcoholic medicinal compounds which are not in conformity with the Unites States Pharmacopœia or National Formulary, the manufacturer will file with collector, when requesting permit for use of nonbeverage alcohol or nonbeverage wines, the following data in duplicate: The name of the preparation, by whom manufactured, for whom manufactured in cases where same is not placed on the market by the manufacturer, the advertising matter distributed with the preparation, and the percentage of alcohol by volume contained in the finished product. (T. D. 2788; Feb. 6, 1919.)

Sworn statement, in duplicate, must be furnished that the medicinal compound contains no more alcohol than is necessary for the purposes of extraction, solution,

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Nonbeverage wine—Continued.

—— **Permit to use or sell**—Continued.

—— —— **Application and bond**—Continued.

or preservation; that it contains in each fluid ounce a dose as a whole or in compatible combination of one or more agents of recognized therapeutic value; that it contains no agents either chemically or physiologically incompatible with the active medicinal agents upon which the medicinal claims are based, and that it is not a beverage and is not to be sold or used as a beverage; Commissioner of Internal Revenue reserves the right, when in doubt as to the nonbeverage character of the preparation (and the applicant must accept such reservation), to demand formula and process by which article is manufactured. The collector immediately after issuing the permit will forward one copy of the data above specified to this office for filing in the Division of Chemistry, retaining one copy for his files. (T. D. 2788; Feb. 6, 1919.)

Form of application, which should be made in duplicate, stated; one copy after approval will be retained by collector and other with approval indorsed thereon will be returned to applicant, who will post same conspicuously in his place of business; application so approved is nontransferable and may be revoked and canceled. (T. D. 2788; Feb. 6, 1919.)

Bond with personal sureties, without justification by sureties, may be accepted on condition that any Government bond or bonds in an equal amount to penal sum of bond offered be deposited with collector as collateral. (T. D. 2788; Feb. 6, 1919.)

Applicant for permit to use or sell wines for other than beverage purposes must furnish bond, in duplicate, with corporate surety or two personal sureties; basis of bond; new bond required, when; instructions with reference to heading, signatures, seals, witnesses, sureties, alterations and erasures; form of bond stated; cancellation. (T. D. 2788; Feb. 6, 1919.)

Full names of individuals must be signed to application for permit for use of nonbeverage distilled spirits or wines, written exactly as in heading thereof; in case of copartnership firm name must be signed preceding names of members, and any member authorized may sign the firm name; in case of corporation the corporate name must be written, followed by name and title of officer duly authorized to sign for company, together with impression of corporate seal. (T. D. 2940; Oct. 29, 1919.)

Where manufacturing pharmacists or manufacturing chemists who have obtained permit subsequent to November 1, 1919, to use nonbeverage spirits or wines in manufacture of certain preparations, desire to use such spirits or wines in manufacturing other preparations according to private formulæ submitted to them by others, they must file supplemental application, if total quantity produced during 90 days exceeds 5 gallons, but if total quantity does not exceed 5 gallons, special permit will not be required, but manufacturer will be held responsible as to sufficiency of medication; additional application must be made where it is desired to use nonbeverage spirits or wines in manufacture of additional preparations not stated in original permit. (T. D. 2940; Oct. 29, 1919.)

All persons, firms, or corporations (except distilleries and proprietors of bonded warehouses, bonded wineries, and bonded storerooms, making deliveries in original packages), desiring to use for manufacturing purposes or sell distilled spirits or wines for medicinal or nonbeverage purposes, required to qualify by filing application for permit and bond; duly licensed practitioners of medicine may secure permit without giving bond for purchase of not in excess of two quarts of alcohol or alcoholic preparations during period of one year by filing Form 737 and executing sworn statement that such alcohol or preparations are to be used in their practice; form of application and data to be included therein; serial number; approval of application; posting of permits by holders. (T. D. 2940; Oct. 29, 1919.)

Prohibition enforcement officers must not issue permit for use of nonbeverage distilled spirits or wines subsequent to November 1, 1919, without first receiving approval of Commissioner of Internal Revenue; new permits will be issued under provisions of T. D. 2788 until November 1, 1919; permits issued prior to November 1, 1919, must be renewed; if, before application for renewal, permit holder desires to have permit extended to cover preparation not heretofore approved, prohibition enforcement officer will forward copy of old permit, together with new application, for approval of the Commissioner. (T. D. 2940; Oct. 29, 1919.)

Applicant for permit to use nonbeverage distilled spirits or wines must furnish bond, in duplicate, conditioned that he shall comply with laws and regulations restricting sale or use of distilled spirits or wines for other than beverage purposes; bond must have corporate surety or two personal sureties and must be approved

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Nonbeverage wine—Continued.

—— Permit to use or sell—Continued.

—— —— Application and bond—Continued.

by prohibition enforcement officer of the State; personal bond may be accepted also if Government bonds in amount equal to penal sum of bond offered shall be duly assigned to Commissioner of Internal Revenue and deposited with prohibition enforcement officer as collateral security; contents of bond; signatures; alterations and erasures; forms; cancellation. (T. D. 2940; Oct. 29, 1919.)

Holders of permits for use of nonbeverage distilled spirits and wines issued prior to November 1, 1919, required to give new bond not later than December 31, 1919; however, no new bond need be filed where satisfactory bond was filed prior to November 1, 1919, on latest revised Form 738 published in T. D. 2788 or T. D. 2840, in sufficient penal sum to meet requirements of T. D. 2940, and in no case less than $1,000; existing permits expire on December 31, 1919, unless new bond is furnished as required. (T. D. 2946; Nov. 13, 1919.)

Basis of penal sum of bond covering use or sale of nonbeverage spirits is $4.20 per proof gallon on quantity of spirits which will be received during any quarterly period of calendar year, plus amount of nonbeverage spirits on hand at end of preceding quarter; penal sum of bond covering wines will be computed at rate $100 for each 200 gallons, or any fractional part thereof; penal sum of bond covering both nonbeverage spirits and wines shall be aggregate sum of amounts required for each; provided, however, that penal sum of any bond shall be not less than $1,000, nor more than $100,000. (T. D. 2946; Nov. 13, 1919.)

—— —— Revocation.

If it should appear on proper showing made at any time that the party to whom permit has been issued has willfully violated any of the provisions of the law or regulations relating to using or handling of spirits or wines, it shall be the duty of the collector to recall and cancel the permit and report the facts to the Commissioner of Internal Revenue, with his recommendations in the premises. (T. D. 2788; Feb. 6, 1919.)

Where manufacturer desires to discontinue manufacture of certain preparations without having his entire permit revoked, he should so notify the prohibition enforcement officer, who in turn should notify the Commissioner; names of such preparations will then be stricken out on all copies of permit. (T. D. 2940; Oct. 29, 1919.)

—— Purposes of use.

No permit should be granted to a manufacturer of alcoholic beverages nor where the spirits or wines are intended to be used for beverage purposes. (T. D. 2788; Feb. 6, 1919.)

Wines for other than beverage purposes may be used only in the arts, sciences, and trades, where circumstances are such that there can be no probability that the wines will be used or sold for beverage purposes or in the manufacture or production of any article intended for use as a beverage; medicinal, culinary, and flavoring extracts; cosmetics and toilet preparations; proprietary medicines. (T. D. 2788; Feb. 6, 1919.)

Notices.

All parties producing not exceeding 1,000 gallons of wine per year, and who receive no wine in bond, must file notice on Form 698, two copies to be filed with collector, and one retained on winery premises; notice must describe and show location of buildings, size and use of each, number of fermenters and of wine tanks respectively, and size of each, and estimated quantity of finished wine to be produced; duplicate of notice on which registry number will be noted should be forwarded to Commissioner of Internal Revenue. (T. D. 2765; Oct. 21, 1918.)

Each person entitled to and desiring to avail himself of exemption provided by section 402 (b) of act September 8, 1916, must file notice with collector of internal revenue before commencing manufacture of wine; such notice must be on paper 8 inches by 10½ inches in size and in stated form. (T. D. 2765; Oct. 21, 1918.)

Numbering premises, tanks, etc.

In case of production not exceeding 1,000 gallons of wine per year all fermenters and all tanks must be numbered serially, commencing with No. 1, and the assigned number and capacity in wine gallons must be plainly and durably marked on each; upon receipt of specified notice collector will assign registry number to premises, and duplicate of notice on which such registry number will be noted should be forwarded to Commissioner of Internal Revenue. (T. D. 2765; Oct. 21, 1918.)

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Pharmacists and pharmaceutical manufacturers.

Pharmaceutical manufacturers are not entitled, under the act of September 8, 1916, to receive on their premises untax-paid wine or spirits. (T. D. 2387; Oct. 30, 1916.)

All wines used by manufacturing chemists or apothecaries in preparations made by them and all compounds and preparations sold by them as wines, however specially designated are subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Apothecaries are allowed to carry distilled spirits and wine in stock and use them in preparation of tinctures and other U. S. P. preparations and in compounding of bona fide prescriptions without paying special tax. (T. D. 2760; Oct. 9, 1918.)

Pharmacists holding special-tax stamps as dealers are entitled to use or sell alcohol or wines for other than beverage purposes. (T. D. 2788; Feb. 6, 1919.)

Wholesale pharmacists may continue to qualify for sale of liquors or wines for nonbeverage purposes in conformity with T. D. 2788. (T. D. 2881; July 3, 1919.)

Wholesale or retail liquor dealers having stocks of wines or liquors on hand may sell to pharmacists holding permit, upon receipt of order on Form 739 and in conformity with T. D. 2788, until supplies are exhausted; wholesale or retail dealers who are not licensed druggists or pharmacists will not be permitted to qualify, after their present stocks are exhausted, to deal in either beverage or nonbeverage spirits. (T. D. 2881; July 3, 1919.) Revoked in so far as applicable to wholesale liquor dealers who are not licensed pharmacists or druggists. (T. D. 2959; Jan. 5, 1920.)

Physicians' prescriptions.

Physicians may prescribe wines for internal use, but in every case each prescription shall be in duplicate, and both copies be signed in physician's handwriting; quantity prescribed for single patient at given time shall not exceed one quart, and in no case shall physician prescribe alcoholic liquors unless patient is under his constant personal supervision; all prescriptions shall indicate clearly name and address of patient, condition or illness for which prescribed, and name of pharmacists to whom prescription is to be presented for filling. (T. D. 2881; July 3, 1919.)

Physician shall keep record in which separate page or pages shall be allotted each patient for whom alcoholic liquors are prescribed, and shall enter therein, under patient's name and address, date of each prescription, amount and kind of liquors dispensed by each prescription, and name of pharmacist filling same. (T. D. 2881; July 3, 1919.)

Druggist filling physicians' prescriptions shall preserve in separate, carefully guarded file one copy of every prescription filled and once a month shall transmit to collector a list showing names of physicians, names of patients, and total quantity dispensed to each patient during the month; whenever physician is prescribing more than normal quantities, or any patient is procuring more than normal quantity, collector shall report facts to Commissioner and the United States attorney. (T. D. 2881; July 3, 1919.)

Any licensed pharmacist or druggist may fill physicians' prescriptions (1) if his name appears on the prescription in the physician's handwriting, and (2) if he has made application and received permit, Form 737, in accordance with provisions of T. D. 2788, and (3) if he has qualified as retail liquor dealer by payment of special tax; no such prescription may be refilled. (T. D. 2881; July 3, 1919.)

Pharmacists should refuse to fill prescriptions if they have reason to believe that physicians are dispensing for other than strictly legitimate medicinal uses, or that patient is securing quantities in excess of amount required for legitimate uses. (T. D. 2881; July 3, 1919.)

Rectifiers.

Rectifiers are not entitled, under the act of September 8, 1916, to receive on their premises untax-paid wine or spirits. (T. D. 2387; Oct. 30, 1916.)

Retailers.

Retail dealers, being exempt from giving bond, can not receive on their premises untax-paid wines. (T. D. 2387; Oct. 30, 1916.)

Returns and reports.

After computation of tax on wines produced in quantities not exceeding 1,000 gallons per year has been made, and necessary stamps affixed and canceled, wine maker must render a report, in triplicate, in stated form, two copies of which report must be forwarded to collector, and one retained on the winery premises. (T. D. 2765; Oct. 21, 1918.)

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Returns and reports—Continued.

When grapes are first crushed wine maker producing not to exceed 1,000 gallons per year must render report in stated form, in triplicate, and under oath, and two copies must be forwarded to collector and one retained on winery premises; if wines are shipped in bond from such wineries to other bonded premises, each shipment must be covered by Form 703, in quadruplicate, filed with collector as provided in case of other shipments of wines in bond. (T. D. 2765; Oct. 21, 1918.)

Sacramental wines.

Alcoholic wines for sacramental purposes may be obtained from a winery, bonded storeroom, or person holding permit for the sale of nonbeverage wines, on affidavit by the priest, pastor, rabbi, or clergyman of any religious denomination in good standing in the community, or some person specifically designated by him, without obtaining permit and giving bond, in any quantity it may deem advisable, except that the total quantity received during any one calendar year shall not be greater than sufficient to meet the bona fide requirements during a period of 12 months; form of affidavit and of application; wines shall not be delivered until affidavit has been received by proprietor of winery, bonded storeroom, or dealer holding permit. (T. D. 2788; Feb. 6, 1919. T. D. 2888; July 14, 1919. T. D. 2912; Aug. 19, 1919.)

Procedure outlined in T. D. 2765 should be followed where wines are produced for sacramental purposes by churches or religious orders, and production and distribution are entirely under clerical supervision; such wines may be removed from premises where produced, in accordance with T. D. 2788; labels required by that decision may be omitted; wine used for sacramental purposes is subject to tax. (T. D. 2881; July 3, 1919.)

In view of the custom during many centuries for Jewish families to make in their homes the wines used in religious rites connected with the Sabbath observance, or observance of the Passover and other similar feasts, the propriety of permitting the continuance of such customs is recognized and members of congregations affiliated under the Union of Orthodox Rabbis may execute the form prescribed in T. D. 2765, paragraph 1, which form should be countersigned by the district rabbi for said Union; 15 gallons a year is deemed a sufficient maximum for established religious usage. (T. D. 2940; Oct. 29, 1919.)

Kosher wines which have been made under the supervision of the Union of Orthodox Rabbis may be obtained from duly certified manufacturer of, or dealer in, such wines who has the certification of the president of such Union, under regulations stated. (T. D. 2940; Oct. 29, 1919.)

Wines for sacramental, medicinal, and other nonbeverage purposes may be produced on bonded winery premises, and wines intended for such purposes may be removed from bonded winery or bonded storeroom only in accordance with regulations; application to be used where sacramental wines are produced by and distributed under clerical supervision stated. (T. D. 2940; Oct. 29, 1919.)

Alcoholic wines for sacramental purposes may be obtained from winery not operated under clerical supervision, bonded storeroom, or person holding permit for sale of nonbeverage wines, on affidavit of priest, pastor, rabbi, or clergyman of any religious denomination in good standing in the community, or some person specifically designated by him, without obtaining permit and giving bond, in sufficient quantity to meet legitimate needs of regular congregation for reasonable period, but not to exceed one year; form of affidavit for such purpose stated; verification of affidavit. (T. D. 2940; Oct. 29, 1919.)

Samples.

Wines furnished as samples by dealers are nevertheless subject to tax under the act of September 8, 1916, (T. D. 2387; Oct. 30, 1916.)

Articles 27 and 28 of Regulations No. 28, Supplement No. 2, require gaugers and visiting deputies to make occasional tests of wine as to alcoholic content, but responsibility for proper stamping of wines is placed upon wine maker or bonded dealer; samples are not to be submitted unless appeal is taken from findings of internal-revenue officers or in cases where it is suspected that the wines are understamped. (T. D. 2400; Nov. 24, 1916.)

Signs, winery premises.

Owner or occupant of winery premises producing not to exceed 1,000 gallons per year must keep conspicuously on outside of building nearest street or highway sign in plain letters and figures, of not less than 3 inches in length and of corresponding width, indicating the premises and the registry number. (T. D. 2765; Oct. 21, 1918.)

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Sparkling wines.

Wines received by dealers which, by subsequent fermentation, are converted into sparkling wines, are subject to tax as sparkling wines and should be so accounted for by such dealers. (T. D. 2387; Oct. 30, 1916.)

Imported or domestic still wines on which tax has been paid, but which when subsequently bottled become carbonated by secondary fermentation, are subject to tax as sparkling wines; where such change in wine is not produced by addition of sugar for purpose of starting secondary fermentation and is merely incidental to bottling, dealer in such case not regarded as producer; to avoid double taxation additional tax found to be due may be paid by affixing additional stamps to bottles containing such wines with label showing wines to have been bottled without treatment. (T. D. 2387; Oct. 30, 1916.)

Distinction between carbonated wine and sparkling wine is that former is artificially carbonated while latter is carbonated by natural fermentation. (T. D. 2387; Oct. 30, 1916.)

Stamps and stamp taxes.

Tax on unstamped wines removed from or to premises not bonded should be reported for assessment against shipper of such wines. (T. D. 2387; Oct. 30, 1916.)

Transfers of wines by wholesale dealers from stamped to unstamped packages should be reported by such dealers in their monthly statements. (T. D. 2387 Oct. 30, 1916.)

Unstamped wines in hands of wholesaler or received by retailers on and after September 9, 1916, are subject to tax imposed by the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Stamps of appropriate denominations should be securely affixed to all casks or cases containing wine, and where value of any stamp exceeds 30 cents initials of wine maker or dealer at date of cancellation should be plainly marked thereon. (T. D. 2387; Oct. 30, 1916.)

Wines may be removed from stamped packages to show casks if on inspection of premises by deputy collector all wines are found to be duly stamped. (T. D. 2387; Oct. 30, 1916.)

Wine stamps issued under emergency revenue act of October 22, 1914, may be used for wines, cordials, etc., taxable under the act of September 8, 1916; such stamps may be affixed to the casks or outer cases containing the taxable wines; bottles of wine removed from stamped cases should, however, be labeled by the dealer as containing wine removed from stamped packages or cases; bottles removed from unstamped cases should be stamped. (T. D. 2387; Oct. 30, 1916.)

Tax due on all wines removed from bonded wineries or bonded storerooms for consumption or sale must be paid by stamp, and stamps must be affixed to all containers so removed and duly canceled, regardless of size of such containers, except in case of shipment in tank cars, when stamps must be affixed to bill of lading, as required by T. D. 2555; however, in case wines are removed in bottles each bottle should bear an appropriate stamp, or, if proprietor of bonded premises so desires, proper stamp may be affixed to each case containing such bottles. (T. D. 2667; Mar. 9, 1918.)

Where possible, collectors, upon receipt of reports from producers of wines in quantities not exceeding 1,000 gallons per year, should detail officers to wineries to see that stamps are affixed to containers and properly canceled by writing in ink or stamping name or initials of producer and date of cancellation on tax stamps; stamps must also be rendered entirely unfit for reuse by cutting them through diagonally or crosswise or by perforation so as to remove substantial portion of paper. (T. D. 2765; Oct. 21, 1918.)

Tax on all wine produced by wine maker in quantities not exceeding 1,000 gallons per year must be paid not later than 90 days after manufacture thereof is commenced by affixing proper stamps to containers, and cancellation of the stamps, unless wine has been previously shipped in bond to other bonded premises and properly accounted for. (T. D. 2765; Oct. 21, 1918.)

In arriving at amount of tax to be paid by producers on quantities not exceeding 1,000 gallons per year, the quantity removed in bond, quantity set aside for family use, actual quantity of lees or sediment, and actual loss resulting from shrinkage, soakage, etc. (not exceeding 3½ per cent of quantity on which tax is paid), may be deducted. (T. D. 2765; Oct. 21, 1918.)

Where regulations relating to production of wine in quantities not exceeding 1,000 gallons per year are not complied with, penalties provided in paragraph (f), section 402, act September 8, 1916, will be incurred. (T. D. 2765; Oct. 21, 1918.)

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Stamps and stamp taxes—Continued.

Provision of section 3324, Revised Statutes, relative to obliteration of stamps on empty distilled spirits casks and packages, including provisions imposing penalties, apply to empty wine packages; therefore, in case of wines produced in quantities not exceeding 1,000 gallons per year, unless stamps on empty packages are effaced and obliterated, penalties provided by such section will be asserted. (T. D. 2765; Oct. 21, 1918.)

Storage.

Storage on bonded premises of wines on which tax has been paid is not permissible; so much of premises used for storage or treatment of untax-paid wines must be bonded. (T. D. 2387; Oct. 30, 1916.)

Tax-paid wines may be temporarily stored for bottling or shipment in room specially set apart for that purpose, although connected with rooms in which untax-paid wines are stored, but under no circumstances should both tax-paid and untax-paid wines be stored in same room. (T. D. 2470; Mar. 27, 1917.)

Time taxes effective.

War revenue taxes on distilled spirits removed from place of production or storage in bond took effect on and after morning of October 4, 1917. (T. D. 2547; Oct. 22, 1917.)

Transportation.

Wines in transit September 8, 1916, should be so inventoried by both shipper and receiver, tax in such cases to be assessed against shipper, but abated if paid by receiver. (T. D. 2387; Oct. 30, 1916.)

Untax-paid wines can be lawfully shipped only from and to bonded premises. (T. D. 2387; Oct. 30, 1916.)

Shipper required to make bill of lading in triplicate, two copies to be filed with collector of district from which wines are shipped, with uncanceled stamps of required denominations affixed to one of such copies; bill of lading to which uncanceled stamps are attached will then be checked with maker's or dealer's monthly statement, and, together with uncanceled stamps, will be forwarded by collector by registered mail to Commissioner of Internal Revenue at close of each month; collector required to mail one copy of bill of lading to collector of district to which tank cars are consigned, noting thereon that appropriate stamps have been received in his office, and third copy of bill will be sent by shipper to consignee, after noting thereon that appropriate stamps were forwarded to collector's office; collector of district to which cars are consigned will see that they are not released to consignee until he has received copy of bill of lading duly certified by collector of district from which shipped, stating that proper stamps have been received in his office; label to be affixed to car will, in addition to prescribed marks, contain words "Tax paid;" shipments, whether in bond or tax paid, will be reported as separate items on Form 701 or 702, as case may be; wine shipped to other than bonded premises, on which tax has not been paid by stamp, will be seized and shipper thereof will be prosecuted under provisions of paragraph (f) of section 402 of the act of September 8, 1916. (T. D. 2474; Apr. 4, 1917. T. D. 2555; Oct. 25, 1917.)

Treatment—Addition of sugar.

Wines to which sugar is added, so that their volume is materially increased, are subject to increase of tax, to be paid by dealer treating such wines; use of sugar solution in excess of 35 per cent of the volume of the resultant product will not be permitted under section 401 of the act of September 8, 1916, or the pure-food laws. (T. D. 2387; Oct. 30, 1916.)

Addition of sugar solution to the must or wine to correct natural deficiencies authorized when such addition shall not increase volume of resultant product more than 35 per cent, and such product does not contain less than 5 parts per thousand of acid before fermentation and not more than 13 per cent of alcohol after complete fermentation; table showing number of gallons of water that may be added to each thousand gallons of must or wine. (T. D. 2469; Mar. 28, 1917. T. D. 2470; Mar. 27, 1917.)

United States, use of.

Wines purchased for use of United States or for Panama Canal Commission may be delivered free of tax; applications for necessary withdrawal permit in such cases should be made under section 3464, Revised Statutes. (T. D. 2387; Oct. 30, 1916).

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Vermuths.

Vermuth is subject to tax as wine. (T. D. 2387; Oct. 30, 1916.)

Vermuth in hands of retail dealers September 8, 1916, is subject to tax under act of October 22, 1914, as a cordial. (T. D. 2387; Oct. 30, 1916.)

Vermuth made from tax-paid spirits without addition of wine is taxable as wine; use of both wine and spirits is prohibited by paragraph (f) of section 402 of act of September 8, 1916, unless wine has been fortified under the act, in which case the product is taxable as a cordial. (T. D. 2387; Oct. 30, 1916.)

Wines used in manufacture of vermuth must be first tax paid, and vermuth, as such, is subject also to tax imposed by act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Unfortified wines, if not mixed with distilled spirits, may be used in manufacture of vermuth, but such wines, as also the vermuths so manufactured, are each subject to tax; still wines fortified under the act of October 22, 1914, may be used in the manufacture of vermuth subject to the conditions above named. (T. D. 2387; Oct. 30, 1916.)

All genuine imported vermuths may be considered, for purpose of collecting floor tax, as having a wine base, unless there is reason for believing otherwise, and domestic vermuths, manufactured in same manner as imported vermuths, will be inventoried accordingly. (T. D. 2579; Nov. 5, 1917.)

Vinegar.

Wines which have become so soured as to admit of their sale or use only as vinegar may be removed or may be destroyed, free of tax, in presence of deputy collector, who will certify to fact on dealer's monthly statement; so-called wine vinegar, if containing 2 per cent or more of alcohol, will not be regarded as vinegar. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers.

Wholesale dealers declining to furnish inventories of wines on hand September 8, 1916, or to render required monthly statements as to disposition thereof, to be reported to United States district attorney for prosecution under paragraph (f) of section 402 of the act of September 8, 1916. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers transferring wines to themselves as retail dealers should so enter such wines on their wholesale records. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers who do not bond their premises, and who have untax-paid wines in their possession, must make monthly returns under oath as to sale of such wines. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers who have shipped untax-paid wines subsequent to September 9, 1916, should make returns thereof and affix to such returns necessary tax-paid stamps. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers are not required to bond their premises, but unless bonded all wines received thereon must be first tax paid. (T. D. 2387; Oct. 30, 1916.)

Wholesale dealers carrying unstamped wines must keep same separate and apart from tax-paid wines; separate buildings or rooms, however, will not be required. (T. D. 2387; Oct. 30, 1916.)

Where all wines held by wholesale dealers have been duly tax paid, monthly statements will not thereafter be required of such dealers. (T. D. 2387; Oct. 30, 1916.)

Collectors instructed to notify wholesale wine dealers that tax on all unstamped wines held on unbonded premises must be fully tax-paid on or before May 1, 1917, and that all untax-paid wines found on unbonded premises at that date will be seized for forfeiture; inconsistent provisions of Regulations 28, Supplement 2, revoked. (T. D. 2459; Mar. 13, 1917.)

WITHDRAWAL.

Alcohol for scientific purposes.

See "Alcohol."

Distilled spirits.

See "Distilled Spirits."

Tobacco or manufactures thereof.

See "Cigars"; "Cigarettes"; "Snuff"; "Tobacco."

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WITHHOLDING.

Income taxes.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

WOOD ALCOHOL.

See "Alcohol."

WORDS AND PHRASES.

"Accept."

The word "accept" is used in the penal provision in section 802 of the act of October 3, 1917, in the general sense of "receive" not in the special sense peculiar to drafts. (T. D. 2682; Mar. 26, 1918.)

"Affiliated."

Two or more corporations are not "affiliated" merely because all or substantially all of the stock therein is owned by the same corporation, individual, or partnership; they must also be engaged in the same or a closely related business. (T. D. 2662; Mar. 6, 1918.)

"Agricultural fairs."

The term "agricultural fairs," as used in section 700 of the act of October 3, 1917, includes live stock and similar shows for promotion of agricultural interests, but not bench shows or other indoor exhibitions. (T. D. 2681; Mar. 26, 1918.)

"All or substantially all of the stock."

The words "all or substantially all of the stock" as used in the definition of an affiliated corporation in Regulations No. 41, article 77, interpreted as meaning an ownership of 95 per cent or more of such stock by the same taxpayer during the taxable year. (T. D. 2662; Mar. 6, 1918.)

"All the proceeds."

The term "all the proceeds," as used in section 700 of the act of October 3, 1917, means the net proceeds after payment of actual reasonable expenses. (T. D. 2681; Mar. 26, 1918.)

"Any part thereof."

"Any part thereof," as used in section 301 of the act of September 8, 1916, is any article relatively complete within itself and designed or manufactured for special purpose of being used as component part of completed munition, and which, by reason of some peculiar characteristic, loses its identity as a commercial commodity, and which, without further treatment, can not be used for any purpose other than that for which it was designed; stock or commercial commodity purchasable in general trade or upon market, if adapted to use in manufacture of munition, is not "part," and will be treated as raw material, provided that articles which ordinarily would be classed as commercial commodities become "parts" when they are manufactured specially for and sold to manufacturer to be by him incorporated in and made essential part of any munitions enumerated in said section 301. (T. D. 2384; art. 13.)

"Appendages."

The word "appendages," as used in paragraph (d) of article 2 of Regulations No. 39, includes those adjuncts or accessories which may be attached to and become in effect parts of firearms. (T. D. 2714; May 14, 1918.)

"Automobile."

An automobile is a self-propelling vehicle usually designed to run on a road, containing the means of propulsion within itself. (T. D. 2719; Art. VIII.)

An automobile truck or wagon is an automobile used primarily for transporting articles. (T. D. 2719; Art. VIII.)

"Avocation."

"Avocation" is that which takes one from his regular calling; a minor occupation. (T. D. 2690; art. 8.)

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"Bad debt."

Bad debt or worthless debt, as contemplated by income-tax law and which may be deducted in return of income, is one which has been actually ascertained to be worthless and charged off within taxable year. (T. D. 2690; art. 8.)

"Bonds."

Instruments containing essential features of promissory note, but issued by corporations in numbers under trust indenture either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor for optional registration in case of bearer bonds for authentication by trustee and sometimes for redemption before maturity or similar provisions are bonds within meaning of Schedule A of Title VII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

"Bottler."

A "bottler" is a producer or any person who puts a liquid in bottles or other closed containers and sells it. (T. D. 2719; Art. XXXIII.)

"Business."

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business," as used in war excess-profits tax regulations, include all sources of income, and unless otherwise indicated by the context, the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual the terms "trade," "business," and "trade or business," as used in war excess-profits tax regulations, comprehend all his activities for gain, profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation they shall be construed to be a trade or business whether continuously carried on during taxable year or not; unless otherwise indicated by the context terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 8.)

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

"Cabaret."

The words "cabaret or other similar entertainment," as used in section 700 of the act of October 3, 1917, include every hotel, or room therein, restaurant, hall, or other public place, at or in which, in connection with service or sale of food or other refreshments or merchandise, any vaudeville or other performance or diversion in way of acting, singing, declamation, or dancing, either with or without instrumental or other music, is conducted; every form of entertainment so conducted is included, except that furnished by orchestras such as were usual in hotels and restaurants before advent of cabarets, performing instrumental music only, unaccompanied by any other form of entertainment; hotel, restaurant, or hall, affording in connection with service of refreshment, food, or merchandise, entertainment in form of dancing by its patrons, is included; performance must be public and for profit; where there is entertainment in one dining room and not in an entirely separate dining room of same hotel or restaurant, only admissions to first room are taxable. (T. D. 2681; Mar. 26, 1918.)

"Capital invested."

The words "capital invested," as used in sections 5 and 12 of Title I, act of September 8, 1916, is meant the fair market value of the properties as of March 1, 1913, if acquired prior to that date, or their actual cost is acquired subsequent to that date, as it relates to the owner in fee of the properties leased. (T. D. 2447; Feb. 8. 1917.)

"Carbonated wine."

Distinction between carbonated wine and sparkling wine is that former is artificially carbonated while latter is carbonated by natural fermentation. (T. D. 2387; Oct. 30, 1916.)

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"Carrier."

The word "carrier," as used in Title V of the act of October 3, 1917, means every person, corporation, partnership, or association who or which for hire furnishes any of the transportation services or facilities described or referred to in subdivisions (a), (b), (c), and (d), of section 500; person, corporation, etc., engaged in logging, manufacturing, mining, or any other business, furnishing any of the services referred to in such subdivisions for hire for account of any other person, corporation, etc., is a carrier within the meaning of Title V. (T. D. 2676; Mar. 18, 1918.)

"Certificates of indebtedness."

Certificate of indebtedness is ordinarily any instrument acknowledging liability for payment of money not in recognized form of a promissory note or bill of exchange. (T. D. 2713; May 14, 1918.)

"Charged off."

The phrase "charged off," as used in the second paragraph under section 12 of Title I, of act of September 8, 1916, contemplates that the reasonable allowance deducted from gross incomes on account of depreciation or depletion shall be credited to proper reserve accounts and carried as a liability against the assets, to the end that when the total of these credits equals the capital investment account no further deductions on these accounts will be allowed. (T. D. 2481; Apr. 10, 1917.)

"Chemical laboratory."

The term "chemical laboratory," as used in section 3297, Revised Statutes, includes any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol withdrawn from bond is used purely for scientific purposes. (T. D. 1971; Apr. 20, 1914. T. D. 2496; May 31, 1917.)

"Clearing house."

The terms "clearing house," "clearing-house corporation," and "clearing-house association" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes each and every association of individuals, partnerships, and associations, engaged in business of clearing, settling, or adjusting transactions in the purchase, sale, receipt, or delivery of shares of stock, whether or not the same be a part or department of an exchange or an independent body. (T. D. 2608; Nov. 30, 1917.)

The term "clearing house" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of produce or merchandise on exchanges for future delivery, includes every clearing-house corporation, clearing-house association, or incorporated or unincorporated association carried on for purpose of clearing, settling, and adjusting transactions in purchasing, selling, receiving, or delivering produce or merchandise, whether such clearing house be a part or department of an exchange or an independent body. (T. D. 2608; Nov. 30, 1917.

"Common-law partnership."

Common-law partnerships are not associations within the meaning of the income-tax law. (T. D. 2690; art. 63.)

"Commutation tickets."

The term "commutation or season tickets," as used in section 500, subdivision (c) of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

"Contract of sale."

The term "contract of sale" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes all sales or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales." (T. D. 2608; Nov. 30, 1917.)

"Corporation."

The term "corporations," as used in T. D. 2382, covers corporations, joint-stock companies or associations, and insurance companies. (T. D. 2382; Oct. 19, 1916.)

"Corporation" or "corporations," as used in Regulations No. 33, relating to income tax, construed to include all corporations, joint-stock companies and associations, and all insurance companies coming within the terms of the law, as well as all business trusts organized or created to engage in commercial or industrial

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"Corporation"—Continued.

enterprises, capital of which is evidenced by certificates or shares of interest issued or issuable to members on the basis of which profits are distributed or distributable. (T. D. 2690; art. 57.)

The term "corporation," as used in war excess profits tax regulations, includes joint-stock companies or associations, no matter how created or organized, insurance companies, and limited partnerships, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 2.)

"Day this act is passed."

The words "on the day this act is passed," used in section 602 of act of October 3, 1917, construed, in connection with section 1302, to mean day law becomes effective, that is, October 4, 1917. (T. D. 2570; Nov. 6, 1917.)

"Dealer."

The term "dealer," as used in Article XXXVII, of Regulations No. 44, relating to war excise taxes, and war tax on beverages, does not refer to or include a purchaser for his own use, unless such use is the manufacture or production of another article intended for sale. (T. D. 2719; Art. XXXVII.)

"Debenture."

The term "debenture" ordinarily, though not necessarily, refers to an unsecured bond. (T. D. 2713; May 14, 1918.)

Instruments containing essential features of promissory note but issued by corporations in numbers, under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in case of bearer bonds, for authentication by trustee, and sometimes for redemption before maturity, or similar provisions, are bonds within meaning of Schedule A of Title VIII, of act of Octoner 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

"Depreciation."

"Depreciation," as used in sections 5 (a) and 12 (a) of Title I, act of September 8, 1916, comprehends loss due to exhaustion, wear and tear of physical property other than natural deposits, and the annual allowance contemplated on this account will be ascertained by spreading ratably the cost of the property over the probable number of years constituting its life. (T. D. 2446; Feb. 7, 1917.)

The expression "depreciation of property," as used in corporation-tax act of August 5, 1909, is used in its ordinary and usual sense, as understood by business men. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

"Dividend."

The term "dividend," within the income-tax law, means any distribution made or ordered to be made by a corporation, joint-stock company or association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its shareholders whether in cash or in stock of the corporation, joint-stock company or association, or insurance company. (T. D. 2690; art. 106.)

The term "dividend," as used in war excess profits tax regulations, has the same meaning as in section 31 of the act of September 8, 1916, as amended by the act of October 3, 1917, to wit, any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March 1, 1913, and payable to its stockholders, whether in cash or in stock, which stock dividends shall be considered income, to the amount of earnings or profits so distributed; unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 9.)

The act of September 8, 1916, and the act of October 3, 1917, in excluding dividends declared out of earnings or profits that accrued prior to March 1, 1913, are not intended to be declaratory of the meaning of the term "dividends" in the act of October 3, 1913. (T. D. 2731; June 11, 1918. Ct. Dec.)

Periodical refunds by cooperative organizations, which are sometimes called "dividends," are wholly different from ordinary dividends based on stock holdings, and need not be listed as income by recipient; where recipient claims right to deduct as business expenses any expenditures on which refund is based, sum claimed as deduction must be reduced in proportion to refund received. (T. D. 2737; June 19, 1918.)

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"Doing business."

The definition of the term "doing business," as used in corporation-tax act of August 5, 1909, which has been judicially approved, is that which occupies the time, attention, and labor of man for the purpose of a livelihood or profit. (T. D. 2436; Jan. 19, 1917. Ct. Dec.)

The word "business," as used in act September 8, 1916, is a very comprehensive term and embraces everything about which a person can be employed; fair test as to whether or not a corporation is doing business is whether the corporation has reduced its activities to the owning and holding of property and the distribution of its avails and doing only the acts necessary to continue that status, or is still active and is maintaining its organization for purpose of continued efforts in pursuit of profit and gain and such activities as are essential to those purposes. (T. D. 2750, art. 4; Aug. 9, 1918.)

"Domestic."

The term "domestic," as used in war excess profits tax regulations, means created under the law (statutory or other) of United States or any State thereof, Alaska, Hawaii, or the District of Columbia, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

"Exchange."

The word "exchange" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes each and every agent or agency, auction place, or other meeting place at which stocks are publicly bought, sold, bid for, offered or exchanged, and includes all incorporated and unincorporated associations, individuals, partnerships, and corporations, engaged in business of publicly selling, buying, or exchanging shares of stock or interests therein. (T. D. 2608; Nov. 30, 1917.)

The word "exchange" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes each and every agent or agency, auction place, or other meeting place, at which produce or other merchandise for future delivery is publicly bought, sold, bid for, offered, or exchanged, or contracts for such future delivery are made, and includes all associations or individuals, partnerships, and corporations engaged in business of publicly selling, buying, or exchanging products of merchandise for future delivery. (T. D. 2608; Nov. 30, 1917.)

"Extract."

An "extract" within the meaning of section 313 (a) of the act of October 3, 1917, is a preparation supposed to possess the characteristic property or virtue of the original substance in concentrated form, and includes essences, flavoring extracts, and the like. (T. D. 2719; Art. XXIX.)

A flavoring extract is a solution, in ethyl alcohol of proper strength, of the sapid and odorous principles derived from an aromatic plant or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation. (T. D. 2940; Oct. 29, 1919.)

Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid and contains not less than 1 per cent by volume of oil of bitter almonds. (Id.)

Anise extract is the flavoring extract prepared from oil of anise, and contains not less than 3 per cent by volume of oil of anise. (Id.)

Celery-seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than 0.3 of 1 per cent by volume of oil of celery seed. (Id.)

Cassia extract is the flavoring extract prepared from oil of cassia, and contains not less than 2 per cent by volume of oil of cassia. (Id.)

Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than 2 per cent by volume of oil of cinnamon. (Id.)

Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than 2 per cent by volume of oil of cloves. (Id.)

Tincture of Jamaica ginger is held to be a medicinal preparation and must be made according to the U. S. P. It is held not to be a flavoring extract. (Id.)

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"Extract"—Continued.

Lemon extract is the flavoring extract prepared from oil of lemon or from lemon peel, or both, and contains not less than 5 per cent by volume of oil of lemon. Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with diluted alcohol, or by dissolving terpeneless oil of lemon in diluted alcohol and contains not less than 0.2 of the per cent by weight of citral derived from oil of lemon. (Id.)

Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than 2 per cent by volume of oil of nutmeg. (Id.)

Orange extract is the flavoring extract prepared from oil of orange or from orange peal, or both, and contains not less than 5 per cent by volume of oil of orange. Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with diluted alcohol, or by dissolving terpeneless oil of orange in diluted alcohol, and corresponds in flavoring strength to orange extract. (Id.)

Peppermint extract is the flavoring extract prepared from oil of peppermint or from peppermint, or both, and contains not less than 3 per cent by volume of oil of peppermint. (Id.)

Rose extract is the flavoring extract prepared from otto of roses with or without red rose petals, and contains not less than 0.4 of 1 per cent by volume of otto of roses. (Id.)

Savory extract is the flavoring prepared from oil of savory or from savory, or both, and contains not less than 0.35 of 1 per cent by volume of savory. (Id.)

Spearmint extract is the flavoring extract prepared from oil of spearmint or from spearmint, or both, and contains not less than 3 per cent by volume of oil of spearmint. (Id.)

Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than 3 per cent by volume of oil of star anise. (Id.)

Sweet basil extract is the flavoring extract prepared from the oil of sweet basil or from sweet basil, or both, and contains not less than 0.1 of 1 per cent by volume of oil of sweet basil. (Id.)

Sweet marjoram extract is the flavoring extract prepared from the oil of marjoram, or both, and contains not less than 1 per cent by volume of oil of marjoram. (Id.)

Thyme extract is the flavoring extract prepared from oil of thyme or from thyme, or both, and contains not less than 0.2 of 1 per cent by volume of oil of thyme. (Id.)

Tonka extract is the flavoring extract prepared from tonka bean. with or without sugar or glycerin, and contains not less than 0.1 of 1 per cent by weight of coumarin extracted from the tonka bean, together with the corresponding proportion of the other soluble matters thereof. (Id.)

Vanilla extract is the flavoring extract prepared from vanilla beans, with or without sugar or glycerin, and contains in 100 cubic centimeters the soluble matter from not less than 10 grams of vanilla beans. (Id.)

Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than 3 per cent by volume of oil of wintergreen. Imitation wintergreen extract or methyl salicylate contains not less than 3 per cent by volume of methyl salicylate. (Id.)

"False."

The word "false," as used in the fifth subdivision of section 38 of the act of August 5, 1909, means "untrue" or "incorrect," and does not necessarily mean intentionally or fraudulently false. (T. D. 2697; Apr. 16, 1918. Ct. Dec.)

"Farm."

The term "farm," as used in instructions governing preparation of income-tax returns by farmers, held to embrace farm in the ordinarily accepted sense, and includes plantations, ranches, stock farms, dairy farms, poultry farms, truck farms, and all land used for similar purposes. (T. D. 2665; Mar. 8, 1918.)

"Farmers."

All corporations, partnerships, or individuals who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are farmers for the purposes of instruction governing preparation of income-tax returns by farmers. (T. D. 2665; Mar. 8, 1918.)

Persons cultivating or operating farm for recreation or pleasure on basis other than recognized principles of commercial farming, result of which is a continuous loss from year to year, is not regarded as a farmer. (T. D. 2690; art. 4.)

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"Fiduciary."

"Fiduciary" is a term which applies to all persons or corporations that occupy positions of peculiar confidence toward others, such as trustees, executors, or administrators; fiduciary for income-tax purposes is any person or corporation that holds in trust an estate of another person or persons; there may be fiduciary relationship between an agent and a principal, but the word "agent" does not denote a "fiduciary" within meaning of income tax law. (T. D. 2690; art. 29.)

"Foods and fruits."

Foods, fruits, food materials, or feeds prohibited for use in producing beverage spirits, include all cereals, tubers, fruits, molasses, grape cheese, apple cheese, fruit parings, cannery refuse, beet-sugar molasses, sour wine, and all other foods, feed, fruits, food materials, and the by-products thereof. (T. D. 2520; Aug. 30, 1917. T. D. 2523; Sept. 11, 1917.)

"For trade."

The words "for trade," as used in section 603 of act October 3, 1917, means for business, particularly the business of buying and selling, or for commerce. (T. D. 2753; Aug. 23, 1918.)

"Foreign."

The term "foreign," as used in war excess profits tax regulations, means created under the law (statutory or other) of any possession of the United States other than Alaska, Hawaii, or the District of Columbia, or of any foreign country or government and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 3.)

"Foreign corporation."

The term "foreign corporation," as used in article 35 of Regulations No. 33, Revised, means one not organized and existing under the laws of the United States or of any State or Territory thereof, or of the District of Columbia, Porto Rico, or the Philippine Islands. (T. D. 2759; Oct. 2, 1918.)

"Foreign item."

The term "foreign item," as used in article 35 of Regulations No. 33, Revised, means any dividend upon stock of foreign corporation or any item of interest upon bonds of foreign countries or foreign corporations, whether such dividend or interest is paid in the United States or by check drawn on a domestic bank. (T. D. 2759; Oct. 2, 1918.)

"Gifts."

To constitute a valid gift there must be an absolute transfer of property from donor to donee, taking effect immediately, and fully executed by delivery of property of donor, and acceptance thereof by donee; it is essential that transactions should be fully executed by delivery of property to donee or to some person for him. (T. D. 2529; Oct. 4, 1917.)

"Good will."

Good will is an intangible asset whose value, separate and apart from business with which it is connected, is not capable of determination; it does not represent a value attaching to physical property. (T. D. 2690; art. 8.)

Good will represents value attached to business over and above value of physical property. (T. D. 2690; art. 167.)

"Gross income."

Gross income, with reference to income tax imposed upon corporations, embraces not only operating revenues but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations; also profits made in other corporations; also profits made from sale of assets, investments, etc. (T. D. 2690; art. 88.)

"Gross income," as used in Regulations No. 39, relating to munition manufacturer's tax, means gross receipts from sale or disposition of munitions or parts thereof enumerated in section 301, Title III, act of September 8, 1916. (T. D. 2384; art. 10.)

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"Head of family."

Head of a family is person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for these dependent individuals is based upon some moral or legal obligation. (T. D. 2690; art. 14.)

"Held out or recommended."

"Held out or recommended," as used in section 600 (h) of the act of October 3, 1917, includes representation by any means, personal canvass, and statements on the labels, in pamphlets, or advertisements, or otherwise; a holding out or recommendation intended for physicians only is a holding out to the public. (T. D. 2719; Art. XXI.)

"Immediate or prompt delivery."

The term "immediate or prompt delivery," as used in Regulation No. 40. Part 2, providing that no tax is imposed on cash sales of products or merchandise for immediate or prompt delivery, which, in good faith, are actually intended to be delivered, means delivery at once or as soon as practicable, and in any event within 20 days of the date of sale or agreement. (T. D. 2608; Nov. 30, 1917.)

"Importer."

An "importer," within Regulations No. 44, relating to war excise taxes, is a person who causes an article to be brought into the United States from a foreign country; a retailer may be also an importer. (T. D. 2719; Art. II.)

"Income."

"Income" means what has come in or receipts. (T. D. 2451; Feb. 20, 1917. Ct. Dec.)

The word "income," as used in the corporation excise tax act of 1909, imports something entirely distinct from principal or capital, either as a subject of taxation or as a measure of the tax, conveying rather the idea of gain or increase arising from current activities. (T. D. 2723; June 4, 1918. Ct. Dec.)

"Intangible property."

The term "other intangible property," as used in section 207 of the act of October 3, 1917, means property of character similar to good will, trade-marks, and the other specific kinds of property enumerated in the same clause; stocks, bonds, bills, and accounts receivable, notes and other evidences of indebtedness construed to be "tangible property" within meaning of such section. (T. D. 2610; Dec. 20, 1917. T. D. 2694; art. 47.)

"Invested capital."

The term "invested capital," as used in excess profits tax law, means the invested capital of the present owner. (T. D. 2694; art. 42.)

The term "invested capital," when used with reference to a foreign corporation or partnership or a nonresident alien individual, means that proportion of the entire invested capital as defined and limited by Regulations No. 4, which the net income from sources within the United States is of the entire net income. (T. D. 2694; art. 48.)

The term "invested capital," as used in section 209 of the act of October 3, 1917, includes all working capital consisting of money or property employed in the business or for its benefit, and furnished or paid in by one or more of the partners. (T. D. 3080; Oct. 19, 1920. Ct. Dec.)

"Jewelry."

Jewelry includes ornaments made of gold, silver, or platinum, or any imitation thereof, and the precious or semiprecious stones, or imitations thereof, used for personal adornment; an article may be jewelry, although serving a useful as well as ornamental purpose. (T. D. 2719; Art. XIII.)

"Joint-stock companies or associations."

Term "joint-stock company or association" as used in Regulations No. 33, relating to income tax, includes associations, common-law trusts, or organizations, by whatever name known which carry on or do business in an organized capacity, net in-

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"Joint-stock companies or associations"—Continued.

come of which, if any, is distributed or distributable among members or shareholders on basis of capital stock which each holds, or, where there is no capital stock, on basis of proportionate, share or capital which each has, or has invested, in business or property of organization. (T. D. 2690; art. 58.)

"Last due date."

"Last due date," as used in Regulations No. 33, mean last day upon which a return is required to be filed in accordance with provisions of the law, or last day of period covered by an extension of time granted by the collector or Commissioner of Internal Revenue. (T. D. 2690; art. 218.)

"Lecture lyceums."

The term "lecture lyceums," as used in clause 8, of section 3, of the act of October 22, 1914, defines no well-known method of public entertainment save as the meaning may be gathered from the aggregation of the two words; there is no system of entertainments known as lecture lyceums; it does not include mere independent show units engaged for the occasion, whether shown alone or as an antidote for somnolence. (T. D. 2684; Mar. 28, 1918. Ct. Dec.)

"Limited partnership."

Limited partnership is partnership having one or more special partners who may share in profits of firm but whose liability for debts of company is limited to amount of capital invested by such special partner or partners. (T. D. 2690; art. 62.)

Limited partnerships of the Pennsylvania type, which offer opportunity for limiting liability of all the members, provide for transferability of partnership shares, and capable of holding real estate and bringing suit in common name, are corporations or joint-stock companies; limited partnerships of New York type, which can not limit liability of general partners, although special partners enjoy limited liability so long as they observe statutory conditions, and which are dissolved by death or attempted transfer of interest of general partner, and which can not take real estate or sue in partnership name, are partnerships; in doubtful cases limited partnerships will be treated as corporations unless they submit satisfactory proof that they are not in effect so organized. (T. D. 2711; May 9, 1918.)

"Lodges."

A society or association "operating under the lodge system" is one organized under a charter or dispensation with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals. (T. D. 2690; arts. 77, 239.)

"Manufacturer."

A "manufacturer" within Regulations No. 44, relating to war excise taxes, is a person who prepares an article in final marketable form and sells or markets it; if goods partly manufactured by one person are further manufactured by another before being marketed to consumers for use, latter is manufacturer for purpose of tax; a retailer may be also a manufacturer. (T. D. 2719; Art. II.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it, and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art. XXI.)

"Medicinal preparation."

A medicinal preparation is a preparation of any substance whatever intended to be applied for the cure or mitigation of pain or disease. (T. D. 2719; Art. XXII.)

"Money or other property borrowed."

The term "money or other property borrowed," as used in section 207 of the act of October 3, 1917, and Regulations No. 41, includes not only cash or other borrowed property which can be identified as such, but current liabilities and temporary indebtedness of all kinds, and any permanent indebtedness upon which taxpayer is entitled to an interest deduction in computing net income. (T. D. 2694; art. 44.)

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"Motorcycle."

A motorcycle is a motor-driven bicycle. (T. D. 2719; Art. VIII.)

"Net income."

Net income is difference between gross income and the sum of allowable deductions. (T. D. 2690; art. 6.)

"Nominal capital."

The term "nominal capital," as used in section 209 of the act of October 3, 1917, means in general a small or negligible capital whose use in a particular trade or business is incidental; certain businesses not construed as having nominal capital for purposes of excess-profits tax, named. (T. D. 2694; art. 74.)

"Nonresident alien corporation."

The term "nonresident alien corporation," as used in T. D. 2382, covers all corporations, joint-stock companies or associations, and insurance companies organized, authorized, or existing under the laws of a foreign country, and having no office or place of business in the United States. (T. D. 2382; Oct. 19, 1916.)

"Oil."

The word "oil," as used in subdivision (d) of section 500 of the act of October 3, 1917, means crude petroleum and such of its products as may be transported by pipe line. (T. D. 2676; Mar. 18, 1918.)

"Organization expenses."

"Organization expenses" constitute a capital investment, such expenses being offset by the asset value of the corporate franchise, an intangible asset of a somewhat permanent character, and in many instances, of substantial value. (T. D. 2499; June 11, 1917.)

"Organized for profit."

A corporation is organized for profit, within act September 8, 1916, if its stockholders or members may benefit pecuniarily from its operations. (T. D. 2750; art. 2; Aug. 9, 1918.)

"Other similar places."

"Other similar places," as used in section 313 (a) of the act of October 3, 1917, includes all places where soft drinks are sold. (T. D. 2719; Art. XXIX.)

"Outdoor general amusement parks."

The term "outdoor general amusement parks," as used in section 700 of the act of October 3, 1917, applies only to such permanent outdoor parks as include a considerable variety of entertainments, such as mechanical shows, musical attractions, riding devices, and vaudeville shows, and not to carnivals or entertainment enterprises with temporary inclosures or on vacant lots; outdoor amusement parks include similar enterprises conducted on piers, but not motion picture or other theaters known as "airdromes." (T. D. 2681; Mar. 26, 1918.)

"Outstanding stock."

Capital stock that has once been issued by a corporation is regarded as being "outstanding," even though it is afterwards acquired by the company for value, and carried on the books as treasury stock. (T. D. 2417; Dec. 16, 1916.)

"Paid."

"Paid" or "actually paid" within meaning of Title I, of the act of September 8, 1916, as amended by the act of October 3, 1917, does not necessarily contemplate that there shall be an actual disbursement in cash or its equivalent; if amount involved represents actual expense or element of cost in production of income of year, it will be properly deductible even though not actually disbursed in cash, provided it is so entered upon books of company as to constitute a liability against its assets, and provided further that income is returned upon an accrued basis. (T. D. 2690; art. 126.)

"Paid-up capital stock."

Definition of "paid-up capital stock" by a local State statute is not controlling on a Federal court construing the corporation excise tax act of 1909, which is applicable to all States. (T. D. 3004; Apr. 21, 1920. Ct. Dec.)

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"Person."

The word "person" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes the plural as well as the singular, and shall be taken to refer to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30, 1917.)

The word "person" within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes the plural as well as the singular, and refers to individuals, partnerships, associations, and corporations, except where it is plain from the context that different meaning is intended. (T. D. 2608; Nov. 30. 1917.)

Term "person," when used in Regulations No. 38, includes such partnerships, corporations, or associations as are engaged in manufacture in the United States and in the sale or disposition of articles enumerated in section 301 of Title III of the act of September 8, 1916, or parts thereof. (T. D. 2384; art. 1.)

"Place."

The word "place" as used in section 700 of the act of October 3, 1917, is not defined in the section, but the context indicates that in general only admissions to places of amusement and entertainment were intended to be taxable. (T. D. 2681; Mar. 26, 1918.)

"Political subdivision."

Term "political subdivision," as used in article 83 of Regulations No. 33, relating to exemption of incomes from interest upon obligations, denotes every division of the State made by proper authorities thereof acting within their constitutional powers for purpose of carrying out portions of those functions of State which by long usage and inherent necessities of government have always been regarded as public; the term includes special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of State. (T. D. 2715; May 20, 1918.)

"Prepared sirup."

A "prepared sirup," within the meaning of section 313 (a) of the act of October 3, 1917, is a simple sirup with flavoring and perhaps other materials. (T. D. 2719; Art. XXIX.)

"Prewar period."

The term "prewar period," as used in war excess-profits tax regulations, means the calendar years 1911, 1912, and 1913, or if a corporation or partnership was not in existence or an individual was not engaged in the trade or business during the whole of such three years, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 6.)

"Private home."

The words "private home," as used in act of September 8, 1916, were intended to be taken in their common and ordinary meaning as describing individual or family residences; it has accordingly been held that occupation tax is applicable to pool or billiard tables and bowling alleys in clubs, fraternity houses, lodge halls, charitable institutions, Y. M. C. A. buildings, hotels, boarding houses, etc. (T. D. 2462; Feb. 16, 1917.)

"Producer."

The term "producer," as used in Regulations No. 44, relating to war excise taxes, is a broader term than "manufacturer," which is defined as a person who prepares an article in final marketable form and sells or markets it; a retailer may be also a producer. (T. D. 2719; Art. II.)

Within the meaning of section 600 (h) of the act of October 3, 1917, a manufacturer or producer is a person who prepares an article or has it prepared and sells it and who identifies the article by a commercial name, trade-mark, or trade name, or by other means, or holds out or recommends the article as a proprietary medicine or a medicinal proprietary article or preparation, or as a remedy or specific. (T. D. 2719; Art XXI.)

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"Projectiles."

"Projectiles," as used in Title III of the act of September 8, 1916, include any and all missiles to be projected from a gun, cannon, mortar or other firearm, and will include bullets, balls, shot, or missiles. (T. D. 2384; art. 2.)

"Promissory note."

Instruments containing essential features of promissory note but issued by corporations in numbers, under trust indenture, either in registered form or with coupons attached, embodying provisions for acceleration of maturity in event of default by obligor, for optional registration in case of bearer bonds, for authentication by trustee, and sometimes for redemption before maturity, or similar provisions, are bonds within meaning of Schedule A of Title VIII of act of October 3, 1917, whether called bonds, debentures, or notes. (T. D. 2713; May 14, 1918.)

"Railroad system."

The term "railroad system," as used in subdivision (b) of section 501 of the act of October 3, 1917, means two or more railroads and such other carriers as may be operated in conjunction therewith, all such railroads and other carriers being under one general operating management, and even though each such railroad or other carrier maintains its corporate identity. (T. D. 2676; Mar. 18, 1918.)

"Raw materials."

As used in section 302 of the act of September 8, 1916, raw materials are crude or elemental products or substances necessary to the manufacture of any parts of the articles enumerated in paragraphs (b) to (e), inclusive, of section 301, and which, without any application of skill or science, can not become component parts or elements in the finished article or unit; as applied to manufacture of completed munitions, raw materials include not only such crude products and elemental substances, but all essential finished or unfinished parts as well; cost of raw materials authorized as deduction will not include any expenditures made for raw materials used in manufacture of articles other than munitions, or parts thereof, where manufacture of such munitions or parts is carried on in connection with any other business. (T. D. 2384; art. 15.)

"Reasonable cause."

The words "reasonable cause," as used in section 3176, Revised Statutes, as amended by the act of September 8, 1916, providing that if after delinquency has ensued and before receiving notice from collector of such delinquency and request for return, delinquent shall have filed his return, accompanied with showing that failure to file in time was due to reasonable cause, no such addition shall be made to the tax, is held to be such a condition of fact as had the taxpayer in default exercised ordinary business care and prudence it would have been impracticable or impossible for him to have filed return on prescribed time. (T. D. 2690; art. 54.)

"Receipt."

Actual receipt is reduction to possession; constructive receipt is where income is credited to or made available to recipients, and is to be reported as income. (T. D. 2690; art. 4.)

"Regular established line."

"Regular established line," as used in act of October 3, 1917, construed to mean a regularity of operation of transportation facilities by motor power between definite points; casual or intermittent transportation of passengers by automobile between two points would not constitute a regular established line; automobile that is merely for hire and which takes passenger to any point he directs does not constitute regular established line. (T. D. 2795; Feb. 26, 1919.)

"Reserve funds."

The words "reserve funds," as used in act of August 5, 1909, have reference to the funds ordinarily held as against the contingent liability on outstanding policies. (T. D. 2501; June 18, 1917. Ct. Dec.)

"Resident alien corporation."

The term "resident alien corporations," as used in T. D. 2382, covers such foreign organizations as have an office or place of business in the United States. (T. D. 2382; Oct. 19, 1916.)

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"Retailer."

A "retailer" who is not also a wholesaler is one who sells only to personal customers and does not solicit or seek to make sales to other dealers for resale. (T. D. 2573; Nov. 1, 1917.)

"Sales."

The word "sales," within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes all sales, agreements to sell, memoranda of sales, and all deliveries or transfers of legal title, except as otherwise specifically provided in such regulations. (T. D. 2608; Nov. 30, 1917.)

The word "sale," within Regulations No. 40, Part 2, relating to stamp taxes upon sales of products or merchandise on exchanges for future delivery, includes all sales or agreements of sale, or agreements to sell, including so-called transfers or "scratched sales." (T. D. 2608; Nov. 30, 1917.)

"Season tickets."

The term "commutation or season tickets," as used in section 500, subdivision (c), of the act of October 3, 1917, includes all forms of tickets issued and intended for use for a certain number of trips between two given termini, whether limited or unlimited as to the time in which they are to be used. (T. D. 2676; Mar. 18, 1918.)

"Shall not include."

Congress used the words "shall not include" (Sec. II G (b), act Oct. 3, 1913), as applied to the annually ascertained overpayments of premium paid back or credited to the policyholder. because it eliminated them from the aggregate of taxable premiums as being the equivalent of abatement of premiums. (T. D. 3046; July 19, 1920. Ct. Dec.)

"Shares of stock."

The term "share or shares of stock," within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes shares and certificates for shares of stock representing interests in corporations and in incorporated and unincorporated associations, as well as voting trust certificates for shares and certificates for shares or interests in shares "if, as, and when issued" and for "rights" therein. (T. D. 2608; Nov. 30, 1917.)

"Shells."

The term "shells," as used in Title III of the act of September 8, 1916, comprehends any receptacle used to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

"Sirup."

A "simple sirup" which is not taxable under section 313 (a) of the act of October 3, 1917, is a preparation of sugar and water or rock candy and water. (T. D. 2719; Art. XXIX.)

A "prepared sirup" within the meaning of section 313 (a) of the act of October 3, 1917, is a simple sirup with flavoring and perhaps other materials. (T. D. 2719; Art. XXIX.)

"Social club."

Any organization which maintains quarters or arranges periodical dinners or meetings for purpose of affording its members opportunity of congregating for social intercourse, is a social club within the meaning of section 701 of the act of October 3, 1917, unless its social features are subordinated and merely incidental to the furtherance of business or other special interests; Commissioner of Internal Revenue shall determine whether club or organization comes within words 'social, athletic, or sporting," upon being furnished charter or constitution and by-laws of organization, statement as to its actual activities and practices, and such other information as he may deem pertinent. (T. D. 2681; Mar. 26, 1918.)

"Soft drink."

A "soft drink" within the meaning of section 313 (a) of the act of October 3, 1917, is a nonintoxicating beverage containing less than one-half per cent of alcohol. (T. D. 2719; Art. XXIX.)

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"Sold."

An article is sold, within Regulations No. 44, relating to war excise taxes, when title to it passes from the seller to the buyer pursuant to a previous contract of sale or upon a sale without previous contract. (T. D. 2719; Art. IV.)

"Sold or leased."

The words "sold or leased," as used in section 600 of act of October 3, 1917, mean when first sold or leased, and payment of tax upon films sold or leased by the manufacturer, producer, or importer, is required but once. (T. D. 2568; Oct. 30, 1917.)

"Sparkling wine."

Distinction between carbonated wine and sparkling wine is that former is artificially carbonated, while latter is carbonated by natural fermentation. (T. D. 2387; Oct. 30, 1916.)

"State."

The word "State," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns and other municipalities. (T. D. 2676; Mar. 18, 1918.)

"Stock dividend."

A dividend declared and paid by one corporation in the stock of another is not a "stock dividend" within the accepted meaning of that term. (T. D. 2732; June 11, 1918, Ct. Dec.)

"Submarine or submersible vessels."

Submarine or submersible vessels, within the meaning of Title III of the act of September 8, 1916, include all craft, no matter how propelled, manufactured for purpose of being at will submerged beneath surface of water. (T. D. 2384; art. 2.)

"Taxable person."

Term "taxable person," when used in Regulations No. 39, includes such partnerships, corporations, or associations as receive any profit from the manufacture and sale of articles enumerated in section 301 of Title III of the act of September 8, 1916. (T. D. 2384; art. 1.)

"Taxable year."

The term "taxable year," as used in war excess-profits tax regulations, means the twelve months ending December 31 of each year, except in case of corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year, and unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning; first taxable year is year ending December 31, 1917, except that in case of corporation or partnership which has fixed its own fiscal year, first taxable year is fiscal year ending during calendar year 1917. (T. D. 2694; arts. 1, 5.)

"Territory."

The word "Territory," as used in section 502 of the act of October 3, 1917, includes political subdivisions thereof, such as counties, cities, towns and other municipalities. (T. D. 2676; Mar. 18, 1918.)

"Torpedoes."

The term "torpedoes," as used in Title III of the act of September 8, 1916, comprehends any receptacle to inclose an explosive charge, or the receptacle and charge combined. (T. D. 2384; art. 2.)

"Trade."

In case of corporation or partnership all income from whatever source derived is deemed to be from its trade or business, and the terms "trade," "business," and "trade or business," as used in war excess-profits tax regulations, include all sources of income, and unless otherwise indicated by the context, the terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 7.)

In case of an individual, the terms "trade," "business," and "trade or business," as used in war excess-profits tax regulations, comprehend all his activities for gain,

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"Trade"—Continued.

profit, or livelihood entered into with sufficient frequency or occupying such portion of his time or attention as to constitute a vocation, including occupations and professions; when such activities constitute a vocation they shall be construed to be a trade or business whether continuously carried on during taxable year or not; unless otherwise indicated by the context, terms will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 8.)

"Transfers."

The word "transfers" within Regulations No. 40, Part 1, relating to stamp taxes on sales and transfers of shares of stock and like securities, includes all sales, agreements to sell, memoranda of sales, and all deliveries or transfers of legal title, except as otherwise specifically provided in such regulations. (T. D. 2608; Nov. 30, 1917.)

"Transportation."

The word "transportation," as used in Title V of the act of October 3, 1917, means the movement of persons and property by a carrier, including all services and facilities rendered, furnished, or used in connection with such movement by or on behalf of a carrier; it includes receipt, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, trimming of cargo in vessels, wharfage, handling of property transported, feeding and watering live stock, and all other incidental services and facilities, but does not include cartage or passengers' meals or hotel accommodations. (T. D. 2676; Mar. 18, 1918.)

"Treasury stock."

Where treasury stock, defined to mean stock which had been previously issued by corporation, and which had been repossessed by it through purchase or otherwise, and then carried on its books as an asset, is resold at a price in excess of its cost upon repossession, such excess shall be returned as income for year in which resold; unissued stock retained by corporation for future sale will not be considered treasury stock, and when sold no part of proceeds will be considered taxable income. (T. D. 2690; art. 98.)

"Trips less than 30 miles."

The phrase "for trips less than 30 miles," as used in subdivision (c) of section 500 of the act of October 3, 1917, in connection with commutation and season tickets, means for less than 30 constructive miles in instances where the rate for transportation is fixed on the constructive mileage. (T. D. 2676; Mar. 18, 1918.)

"United States."

The term "United States," as used in Title V of the act of October 3, 1917, means only the States, Alaska, Hawaii, and the District of Columbia. (T. D. 2676; Mar. 18, 1918.)

The term "United States," as used in war excess-profits tax regulations, (when used in a geographical sense) means only the States thereof, Alaska, Hawaii, and the District of Columbia, and, unless otherwise indicated by the context, term will be deemed to be used only with this scope or meaning. (T. D. 2694; arts. 1, 4.)

"United States," as used in r gulations No. 38 (revised), includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. (T. D. 2750, art. 24; Aug. 9, 1918.)

"Vocation."

"Vocation" is defined as the occupation or pursuit to which one devotes his time or life; a calling. (T. D. 2690; art. 8.)

"Worthless debt."

"Worthless debt," as contemplated by the income-tax law, is one which has been actually ascertained to be worthless and charged off within taxable year. (T. D 2690; art. 8.)

WORK AND LABOR.

See "Master and Servant."

Contracts for services—Stamp tax.

Contracts for performance of services are not subject to stamp tax. (T. D. 2599; Dec 3, 1917.)

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Labor organizations—Capital stock tax.

Labor organizations are specifically exempt from tax imposed by section 407 of the act of September 8, 1916. (T. D. 2382; Oct. 19, 1916. T. D. 2750, art. 12; Aug. 9, 1918.)

—— Income taxes.

Labor organizations are exempt from tax without condition; collector, being satisfied that organization comes within exempted class, is authorized to eliminate it from his list and relieve it from necessity of making returns. (T. D. 2690; art. 68.)

WORTHLESS DEBTS.

Definition.

Worthless debt, as contemplated by the income-tax law and which may be deducted in return of income, is one which has been actually ascertained to be worthless and charged off within taxable year. (T. D. 2690; art. 8.)

Income taxes—Deductions.

See "Income Taxes (Corporations)"; "Income Taxes (Individuals)."

Y. M. C. A.

Excise tax on boats used by.

Boat used by Y. M. C. A. in transporting its religious workers and others is not used for trade, but for other serious purpose, and is subject to tax imposed by section 603 of the act October 3, 1917. (T. D. 2753; Aug. 23, 1918.)

Occupational taxes—Pool tables, etc.

Pool tables and bowling alleys are exempt under act of September 8, 1916, if tax would fall upon State treasury; otherwise tax is due on account of pool tables and bowling alleys in State armories, etc., and also in Y. M. C. A. buildings. (T. D. 2462; Feb. 16, 1917.)

YEAST.

Corn used in manufacture.

Where distiller is primarily and essentially a manufacturer of yeast he may use such quantity of sound corn as may be necessary to meet legitimate demands of his trade, provided he first obtains written consent of Commissioner of Internal Revenue. (T. D. 2642; Jan. 28, 1918.)

Surveys of distilleries.

Instructions relative to making surveys of distilleries using the filtration-aeration process and operating on the sweet-mash principle for the commercial manufacture of yeast only. (T. D. 2393; Oct. 7, 1916.)

ZOOLOGICAL PARKS.

Admissions.

Admissions to public zoological parks and other entertainment enterprises conducted by or under direction of Government or State, or political subdivision of either, are not taxable. (T. D. 2681; Mar. 26, 1918.)

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